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ABSTRACT

The handbook provides information in question-and-answer format on the legal rights of developmentally disabled persons, focusing on those in the state of Massachusetts. An introductory section discusses developmental disabilities and advocacy. The main section, on legal rights, covers such areas as discrimination (including Section 504 of the Rehabilitation Act of 1973); employment (including wages and fringe benefits); vocational rehabilitation (including sheltered workshops); health care (including Medicaid and medicare); public benefits (including social security disability, veterans benefits, and food stamps); housing; transportation (including license plates for the handicapped); special education; recreation; money (banks, bills, and consumer rights); insurance; competence, guardianship, conservatorship, and other options; voting; family rights (including marriage, abortion, sterilization, and sexuality); rights in institutions and community residences; and criminal matters (including victims' rights). Also included are listings of state agencies and their local offices, private developmental disabilities organizations, courts, and sources of legal help. Brief citations to major laws are also included. (Author/DLS)

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A Handbook on Legal Rights of Developmentally Disabled People in Massachusetts

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1978

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This Handbook has also been transcribed on tapes for the blind. Contact the Mental Health Legal Advisors Committee for further information on availability.

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Nancy Rich
Mental Health Legal Advisors Committee
1978

To the developmentally disabled people who continue to demand their rights as full and equal citizens....Fred and Ron, who know their rights and act as their own advocates; and Joanne, who cannot conceptualize "rights" but whose cries and pain push us on to advocate for her; and countless others.

TABLE OF CONTENTS

PART ONE: DEVELOPMENTAL DISABILITIES AND ADVOCACY

I. What Are Developmental Disabilities? 1

II. Suggestions for Effective Advocacy 2

PART TWO: LEGAL RIGHTS

I. Discrimination 5

A. Section 504 of the Rehabilitation Act of 1973 5

B. Other Discrimination Laws 10

II. Employment 12

A. Discrimination/Accessibility 12

B. Wages 18

C. Fringe Benefits 20

D. Effect of Employment on Public Benefits 20

E. Accidents on the Job: Workmen's Compensation and the Second Injury Law 22

F. Aids to Employment 23

III. Vocational Rehabilitation 24

A. Massachusetts Rehabilitation Commission 24

B. Sheltered Workshops 27

IV. Architectural Accessibility 32

V. Health Care 38

A. Your Rights to Health Care 38

B. Your Rights as a Medical Patient 40

C. Discrimination and Accessibility 44

D. Consent 46

E. Medical Bills 47

F. Medicaid 49

G. Medicare 53

VI. Public Benefits 56

A. Supplemental Security Income 56

B. Social Security Disability 60

VI. (continued)
C. General Relief 63
D. Food Stamps 65
E. Aid to Families with Dependent Children 66
F. Emergency Assistance 68
G. Unemployment Insurance 68
H. Veterans Benefits 70

VII. Housing 71
A. Government-Assisted Housing 71
B. Towards Independent Living: Community Residences, Supportive Services, Emergency Housing 74
C. Accessibility/Discrimination 78

VIII. Transportation 82
A. Driver's Licenses 82
B. License Plates for the Handicapped 84
C. Discrimination/Accessibility 85
D. Free and Low Cost Transportation 90

IX. Special Education 91

X. Recreation 103
A. Discrimination/Accessibility 103
B. Rights to Publicly Funded Recreation 106

XI. Money: Banks, Bills, and Consumer Rights 107
A. Rights to Manage Your Money 107
B. Bank Accounts 107
C. Debts 110
D. Consumer Rights 111
E. Identification Cards 114

XII. Insurance 115

XIII. Competence, Guardianship, Conservatorship and Other Options 118
A. Competence 118
B. Guardianship 118
C. Conservatorship 125

XIII. (Continued)

D. Representative Payees 126
E. Special Bank Accounts 127
F. Power of Attorney 127
G. Wills 128

XIV. Voting 129

XV. Family Rights 130
A. Marriage 130
B. Abortion and Sterilization 130
C. Sexuality 132
D. Right to Bear and Raise Children 132

XVI. Rights in Institutions and Community Residences 134
A. Admission and Discharge 134
B. Criminal Defendants 139
C. Your Rights as a Resident in a Psychiatric Hospital 142
D. Your Rights as a Client in a Mental Retardation Program 148

XVII. Criminal Matters 153
A. Your Rights If Charged with a Crime 153
B. Special Issues for People with Disabilities 156
C. If You Are the Victim of a Crime 158

PART THREE: RESOURCES

I. People and Organizations 159
A. Agencies 159
B. Private Organizations 170
C. Courts 173
D. Lawyers and Legal Resources 175

II. Written Resources 185

PART ONE:

Developmental Disabilities and Advocacy

I. WHAT ARE DEVELOPMENTAL DISABILITIES?

This Handbook is addressed to you as a person with a developmental disability. The term "developmental disability" is defined in a recent federal law as a severe, chronic disability which begins before age 22, is likely to continue indefinitely, substantially limits major life activities such as self-care or mobility, and requires special treatment or services.*

As a developmentally disabled person you are entitled to special services, such as the Developmental Disabilities Law Center, which provides broad-based legal and advocacy services for developmentally disabled people in Massachusetts. (See description in Part Three, Section I (D).) More of your rights, however, come from laws designed for "handicapped" or "disabled" people in general.

When this Handbook was being written, the definition of developmental disability was limited to mental retardation, cerebral palsy, epilepsy, and autism, so the examples are primarily oriented to those disabilities. The legal information, however, applies to all developmental disabilities and to most other handicaps and disabilities as well.

* Defined in a federal law, Developmental Disabilities Assistance and Bill of Rights Act of 1978.

II. SUGGESTIONS FOR EFFECTIVE ADVOCACY

1. To find out what your rights are:

   --Read this Handbook (can be read a section at a time if your time is limited)

   --Check the list of written resources on legal rights at the end of this Handbook

   --Most libraries have copies of Massachusetts laws; regulations written by Massachusetts agencies can be obtained by writing to the State House Bookstore, Boston, Massachusetts

   --If your question involves action taken by an agency or organization, see if the organization has a customer complaint office, a consumer services department, clients' rights coordinator, ombudsman, etc. Ask for information on your rights.

2. In dealing with an agency or organization about a complaint:

   --Know your rights first. Get copies of relevant laws, or have someone explain your rights very thoroughly.

   --Get names of people to whom you make your complaint and with whom you are dealing on the phone or in person.

   --Keep records of your actions, phone calls, letters, meetings, responses of the agency, promises made, etc.

   --Keep records on actions that you think you may want to make a complaint about in the future; it is very hard to investigate a complaint about an action without dates, names, and details of what happened.

   --Keep copies of any documents you send or receive.

   --Set reasonable deadlines for the agency's response; follow up if you do not hear by that time.

   --If you reach an agreement, have it put in writing or send a letter confirming your understanding of it.

3. Advocating for the result you want:

--You have a right to know the basis on which an agency decision was made--what law or regulation, whether it is a matter of agency policy, the judgment of the person handling your case, etc.

--See if there are any exceptions allowed, if a decision was not made in your favor initially.

--Agencies providing services have appeals procedures for resolving grievances. For example, there are grievance or appeals procedures for the Department of Mental Health, Department of Education and local special education providers, Mass. Rehabilitation Commission, Department of Public Welfare, utilities companies. Use these procedures if necessary.

--Be specific about the action you want the agency to take.

--Demand adequate service from public organizations--point out that the organization is intended to provide services and should be acting on this principle.

--Get support from other people or organizations before you meet with the other side, so it is clear you are not alone.

--If a decision has not been made in your favor, try to point out how your situation is different and how the decision should not be applied in your case.

--Find out where the agency can use their own discretion despite red tape, and ask them to do so in your favor.

--When you first meet with an agency about your complaint, have a summary of your complaint readily available, with any necessary back-up papers.

--Agency staff may be more willing to go out of their way for you if you convey a sense of respect for them, an awareness that you know they have a difficult job to do, even if you and they are in disagreement.

--Insist on the agency taking a common sense approach to your problem, in addition to or in spite of regulations and technicalities.

--If the agency will not provide the services you want, ask for a referral to a place that will help you or ask for advice on what other course of action you should take.*

4. Using more formal advocacy:

--Agencies providing services have appeals procedures for resolving grievances. Ask the head of the agency or its legal department, if any, for assistance on using these procedures.

--Seek assistance from higher people in the agency if you are turned down initially.

--Most service providers, both private and public, are licensed or regulated in some way. For example:

--Doctors, nurses, social workers, psychologists, dentists
--Schools
--Nursing homes, rest homes, hospitals, community residences, boarding houses
--Welfare offices, welfare programs
--Insurance companies
--Merchants, stores
--Restaurants, food stores

--Transportation companies

There are many other examples. There is usually a state agency (sometimes also a federal agency) responsible for seeing that the regulations are enforced. You can call that agency and ask for help dealing with a service provider who is violating a regulation or right. See the sections in this Handbook for names and addresses of agencies in your area of concern.

--If you decide to seek legal help, see the list of legal resources in this Handbook, Part III, Section I (D). Sometimes an advocate can provide the additional help you need, although there are times when only a lawyer's assistance will get results.

* Some of these suggestions are taken from an article by William Statsky, "Paralegal Advocacy before Administrative Agencies: A Training Format," University of Toledo Law Review, Vol. 4, Spring 1973, pp. 443-444.

PART TWO:

Legal Rights

I. DISCRIMINATION

1. What are my rights against discrimination on the basis of my handicap?

Until the last few years, people with developmental disabilities and other handicaps had few legal protections against discrimination. Now there are several laws, which offer various kinds of protection against discrimination on the basis of handicap in employment, housing, education, medical and social services, access to public places, architectural accessibility, transportation, and many other areas of activity.

These laws do not prohibit discrimination by all groups and individuals involved in these areas of activity. Instead, each law affects a certain type of organization--for example: federal agencies; state agencies; private organizations with federal grants; and so on.

In many cases, these laws do nothing to prevent private organizations or individuals from discriminating against the handicapped. However, while the gaps in the laws are still large and painful, much progress has been made since the last decade to ensure equal rights for developmentally disabled people.

The main handicap discrimination laws are described below.

A. SECTION 504

2. What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination on the basis of handicap by federally funded programs. Section 504 says:

> "No otherwise qualified handicapped individual...shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

3. Who is considered handicapped?

A handicapped individual is defined as any person who (a) has a physical or mental impairment which substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.

4. What organizations are prohibited from discriminating by Section 504?

Programs receiving federal funds may not discriminate on the basis of handicap under Section 504. Such programs often include:

Universities, colleges, public schools
National forests and parks
Mass Transit systems, railroads, buses
Subsidized housing programs
Music, theater, arts programs
Hospitals, clinics
Welfare, social service and rehabilitation programs
Legal services programs
State-sponsored programs

There are, clearly, many private organizations which do not have to comply with 504 because they do not get federal funds.

5. What are some specific requirements of Section 504?

Among other requirements, programs affected by Section 504:

(1) Must not, on the basis of handicap, exclude a qualified handicapped person;

(2) Must take steps to see that qualified handicapped individuals have equal opportunity to benefit from the program, including architectural changes if needed to make the program accessible to physically handicapped people, special aids or assistance such as interpreters for deaf people, and so on;

(3) Must allow qualified handicapped persons to participate in as integrated a setting as possible.

Here are some examples:

--If you meet the admission requirements for a college, you cannot be excluded simply because you have a handicap.

--If you are qualified for a job, you cannot be rejected as an applicant simply because your employer would have to make some minor changes at the office to accommodate you and your wheelchair.

--Your employer must make reasonable accommodation to your handicap, such as eliminating non-essential aspects of your job if they are difficult for you because of your handicap; modifying your work schedule; making reasonable architectural changes, etc.

Details of how Section 504 affects different kinds of programs are given in section of this handbook on:

-Employment - Section II (A)
-Architectural Accessibility - Section IV
-Health Care - Section V (C)
-Housing - Section VII (C) and (D)
-Transportation - Section VIII (C)
-Education - Section IX
-Recreation - Section X (A)

6. Who is responsible for enforcing the requirements under Section 504?

Each federal agency is responsible for enforcing 504 requirements in the programs it funds, and must write regulations giving details of its 504 requirements and enforcement procedures. The U.S. Department of Health, Education and Welfare has set up model regulations for the other agencies to follow, and coordiantes the enforcement efforts.

Some federal agencies have not written their regualtions yet, but your rights under Section 504 can still be enforced.

7. What should I do if I feel I have been discriminated against on the basis of my handicap?

First, see if the program gets federal funds and if so, from which agency. Ask the program director, or check brochures, annual reports and so on. If the program does not get federal funds, see Section I (B) below, on other discrimination laws that might cover your situation.

If your program is federally funded, you may make a complaint to the federal agency providing the funds.

If you need help finding out which agency is involved, or getting its address, call the Developmental Disabilities Law Center (294 Washington Street, Boston, Mass., 02108; (617) 426-7020). Some of the main agencies and their addresses are:

Office for Civil Rights
Dept. of Health, Education and Welfare
140 Federal Street
Boston, MA 02110
(617) 223-6397

Office of Fair Housing and Equal Opportunity
Dept. of Housing and Urban Development
JFK Federal Building
Boston, MA
(617) 223-4317

Office of Environment and Safety
Office of the Secretary
Dept. of Transportation
400 Seventh St., S.W.
Washington, D.C. 20590
(202) 426-4357

General Counsel's Office
National Endowment for the Arts
2401 E Street, N.W.
Washington, D.C. 20506
(202) 634-6588

(this office funds programs for museums, orchestras, theater, etc.)

Office of the Secretary
Policy Budget and Administration
U.S. Dept. of Interior
Washington, D.C. 20240
(202) 343-5521

(this office includes the National Park Service and the Bureau of Outdoor Recreation, which fund many recreation programs)

Your complaint must be in writing and can be made by someone else on your behalf. It must: (1) give your name, address and phone number; (2) generally describe or identify you; (3) contain the name and address of the organization receiving federal funds; and (4) describe the discrimination in enough detail to show what happened and when.

Your complaint must be filed within 180 days of the action you are complaining about (unless the deadlines are extended for good cause).

8. How will my complaint be handled?

After you file your complaint, there will be an investigation. From this point on, you do not have to be involved, although you have a right to be informed of progress on your case. If your rights under Section 504 appear to have been violated, you will be so informed and attempts will be made to get a remedy for you informally. If these attempts fail, a remedy will be sought through formal action to stop the program's federal funding, or through other means.

9. What kind of remedies might be offered to me?

Some examples of remedies might be hiring, reinstating, promoting or giving back pay in an employment discrimination case; making architectural changes in a housing discrimination case. However, no remedies are specified in the law, so each case is negotiated individually.

10. Do I need a lawyer to pursue my rights under Section 504?

You do not need a lawyer to make a complaint using the process described above. However, sometimes the process might not result in the kind of remedy you want. In some cases, you should take other steps such as filing a lawsuit against the federally funded organization. It is best to consult a lawyer early in the process described above, whether or not you are unhappy with the way it is going. (See list of legal resources, Part Three, Section I (D).)

B. OTHER DISCRIMINATION LAWS

11. What other laws prohibit discrimination on the basis of handicap?

There are several other laws. In some cases, more than one law might apply to your situation, so it may be helpful for you to consult a lawyer as to which law and complaint procedures might be most effective.

(a) Employment discrimination by federal agencies:

Section 501 of the Rehabilitation Act of 1973. See Section II of this Handbook.

(b) Employment discrimination by organizations with federal contracts:

Section 503 of the Rehabilitation Act of 1973. See Section II of this Handbook.

(c) Employment discrimination by state agencies; discrimination by organizations with state contracts; discrimination in providing state services.

Executive Order 143, issued in 1978 by Governor Michael Dukakis. See Section II of this Handbook.

(d) Firing or refusing to hire on the basis of concealing a past admission to an institution for the mentally ill:

Mass. General Laws Chapter 151B, Section 4 (9A). See Section II, Question 11.

(e) Firing or refusing to hire a rehabilitated handicapped person on account of handicap:

Mass. General Laws Chapter 149, Section 24K. See Section II, Question 11.

(f) Discrimination on the basis of blindness or deafness in admission to or treatment in a public place:

Mass. General Laws Chapter 272, Section 98. See Section X, Question 2, and Section VII, Question 11.

(g) Discrimination in giving credit or services or renting accommodations on the basis of being a recipient of public assistance:

Mass. General Laws Chapter 151B, Section 4 (10). See Section VII, Question 11.

(h) Architectural accessibility requirements for public places in Massachusetts:

Mass. General Laws Chapter 22, Section 13A (Architectural Barriers Board). See Section IV.

(i) Architectural accessibility requirements in federally financed public buildings:

Architectural Barriers Act of 1968 (federal). See Section IV.

(j) Discrimination in renting public housing:

Mass. General Laws Chapter 121B, Section 32(e).

More information on discrimination and accessibility can be found in each of the sections of this Handbook that follow.

II. EMPLOYMENT

A. DISCRIMINATION / ACCESSIBILITY

1. What employers are forbidden by law to discriminate against people on the basis of handicap?

--Federal agencies: must take affirmative action in hiring and advancement of qualified handicapped persons. (Section 501 of the Rehabilitation Act of 1973)

--Organizations with federal contracts over $2500: must take affirmative action in hiring and advancement of qualified handicapped persons. (Section 503 of the Rehabilitation Act of 1973)

--Organizations getting federal financial assistance: may not discriminate against qualified handicapped people in employment. (Section 504 of the Rehabilitation Act of 1973)

--State agencies in the executive branch of government and organizations having state contracts: may not discriminate against qualified handicapped people in employment. (Executive Order 143, issued in 1978)

--For information on two additional state laws, see Question 11.

2. Who is considered handicapped?

For the laws listed above, the definition of handicapped person is anyone who (1) has a physical or mental impairment which substantially limits one or more major life activities, or (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

3. What kind of employment discrimination is illegal?

As long as you are otherwise qualified for the job, the employers in Question 1 may not discriminate

against you because of your handicap in such areas as:

--hiring, firing, layoffs
--promotion
--transfer
--pay
--recruitment
--selection for training
--activities sponsored by your employer such as social activities or recreation
--fringe benefits (insurance, pensions, etc.)

An employer may set requirements for a job but they must be job-related. For example, a telephone operator could be required to have good hearing, thus excluding deaf applicants. But such a requirements would not be fair for a typist.

An employer may also set requirements related to safety on the job. For example, poorly controlled epilepsy could be justifiable grounds for excluding you from a job operating dangerous machinery unless reasonable accommodation could be made to make the machinery safer. However, a history of seizures which are now under excellent control should not be grounds for rejecting you from that same job.

4. What adjustments does an employer have to make to my handicap?

The employers in Question 1 must make "reasonable accommodation" to your handicap, unless it would be an "undue hardship". For example:

--Making facilities accessible (see Question 5)
--Job restructuring
--Part time or modified work schedules
--Getting special equipment (tape recorders for blind people, for example)
--Providing readers for blind people or interpreters for deaf people

5. What legal requirements must an employer meet in regard to architectural accessibility?

Employers who must comply with Sections 501, 503, or 504, or Executive Order 143, must make "reasonable accommodation"

to your handicap unless doing so would cause undue hardship to the employers. Reasonable accommodation means, if necessary: architectural changes for accessibility; ramps, entrances, elevators, bathrooms, etc. must be usable by the handicapped employee.

In addition, certain types of buildings must be accessible regardless of what employers occupy the building. For further information, or to make a complaint under Section 504, see Section IV on Architectural Accessibility.

To make a complaint about accessibility under the employment discrimination laws (Section 501, 503, or Executive Order 143), use the procedures outlined in Questions 8 and 9 below.

6. Do I have to answer questions about my handicap when I I apply for a job? Do I have to say I have a handicap?

When applying for a job, you do not have to answer general questions such as "do you have a handicap" or "do you have epilepsy" or "have you ever had any nervous disorders". If you are asked such questions, either in person or on a form, make a note of it. You may refuse to answer, or state, "This question is illegal under recent federal laws", or state, "I do not have any handicapping conditions which would affect my performance on the job" or similar wordings.

You do have to answer questions about your ability to do the job, such as "do you have any conditions which would make you unsafe for this job". When you apply, take note of the questions asked, any forms, tests, and so on.

Once you get a job, your employer can ask you about your handicap so as to make adjustments for you or take care of you in a medical emergency. But you do not necessarily have to give any information. This information must be kept confidential.

7. Do I have to take a medical exam if my future employer asks me to?

In organizations which must comply with Section 504, your employer may not require you to take a pre-employment medical examination. However, your employer may make a job offer contingent on the results of a medical examination; this can be done only if all entering employees must take such an examination.

For organizations which do not have to comply with Section 504, but must comply with Section 501, Section 503, or Executive Order 143: you may be singled out to take a pre-employment exam. The results may only be used to determine if you can perform the job or to aid your employer in accommodating your handicap.

8. What can I do if I feel I have been discriminated against?

First, find out if your employer is a state or federal agency or gets federal or state contracts or financial assistance. Ask your supervisor or the head of the organization or check with the state or federal agency which might be involved.

Next, speak to your employer. Explain your rights, why you feel you could do the job in spite of your handicap, and what your employer could do to satisfy your complaint.

Use your company's or union's grievance procedures, if any.

If these suggestions do not work, contact:

--For state agencies or contractors:
Office of Affirmative Action
One Ashburton Place
Boston, MA
(617) 727-7441

--For federal contractors:
Office of Federal Contract Compliance Programs
Department of Labor
JFK Federal Building
Boston, MA
(617) 223-4232

--For federal agencies:
The Equal Employment Opportunity Office in your agency

or

Office of Selective Placement
Bureau of Recruiting and Examining
Civil Service Commission
1900 E St. NW
Washington, D.C. 20415
(202) 632-4437

--For organizations receiving federal financial assistance:
See Section I of this Handbook.

To make a complaint under these laws, write a letter explaining who was discriminated against, how the discrimination was done, by whom or what institution,when, who can be contacted for further information, your name, address and phone, and as much background information as possible.

You should also telephone or write for details on how and when your complaint will be handled. The process can take a very long time. If you will suffer some harm from waiting, consult a lawyer about other avenues (see list of legal resources, Part Three, Section I (D)).

9. How will my complaint be handled?

Each agency in Question 8 has its own process. Basically, the agencies will investigate your complaint, try to resolve it informally, and hold a hearing if you and your employer cannot agree.

10. Do I need a lawyer for this process?

You do not have to have a lawyer, but it helps. You will have to have a lawyer if you want to go to court instead of or in addition to using the administrative procedure. It may be helpful to consult a lawyer early in the complaint process.

11. What other employment discrimination laws are there?

(1) Mass. General Laws Chapter 151B, Section 4 (9A): says that if you were hospitalized for mental disorders but have been discharged and have a doctor's statement on your ability to do the job, then it is illegal for an employer to refuse to hire or employ you, or to bar you or fire you from employment for not giving information about your past hospitalization. In other words, you do not have to mention your hospitalization, and if your

employer finds out later, you cannot be punished for concealing it. But you must have the doctor's letter on hand.

To enforce your rights under this law, call:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-4400 or 727-3192

(2) Mass. General Laws Chapter 149, Section 24K: says that a fine can be imposed on anyone who fires or refuses to hire, solely because of his handicap, a rehabilitated handicaped person who is capable of doing the job. Unfortunately the fine is very low, but the investigation may be a deterrent to some employers.

To make a complaint urder this law, contact:

Mass. Department of Labor and Industries
100 Cambridge Street
Boston, MA
(617) 727-3462

12. What should I do if I can't figure out what agency or law covers my type of employer?

Ask for assistance from one of the legal resources listed in Part Three, Section I (D).

13. One employer refused to hire me because he said his insurance rates would go up. Is this legal?

A refusal of this type may be grounds for a complaint of discrimination.

Insurance rates are not based on whether the employees have handicaps, but on the company's accident record and nature of the work. (See Question 24 in this Section.)

B. WAGES

14. What are my rights in regard to wages?

In most (but not all) jobs you have the right to get paid at least $2.65/hour (minimum wage, as of 1978). In some jobs the minimum allowable wage is higher.

You can be paid less if:

(1) Your job is not covered by minimum wage laws; or

(2) You are in a training or rehabilitation program; or

(3) You have a handicap that makes you less productive than the average worker.

But you cannot be paid less (in jobs covered by minimum wage laws) unless your employer gets permission from the U.S. Department of Labor and/or the Mass. Department of Labor and Industries and receives a sub-minimum wage certificate.

The lower wage must be based on your productivity. If your handicap does not make you less productive, you should get the same pay as other workers in the same job.

Sub-minimum wage certificates can be given in sheltered workshops, to an individual worker in a regular job, and to students.

15. I think I am unfairly being paid less than minimum wage or the minimum allowable wage in my kind of job. What can I do?

You may get further information or make a complaint to:

U.S. Department of Labor
Wage and Hour Division
JFK Federal Building
Boston, MA 02203
(617) 223-5565

or

Mass. Department of Labor and Industries
100 Cambridge St.
Boston, MA
(617) 727-3476

These agencies can tell you if your wage is legal, and if not, can help you get your back wages. It is illegal for your employer to make you accept lower wages than required, or to make you return part of your paycheck. It is also illegal to fire or harass you for making a complaint about minimum wages.

16. I am being paid less than other people who have the same job, skills, and experience. I think it's because I have a handicap. What can I do?

See Questions 8 and 9 above for possible action you can take.

17. I work for the institution where I am a resident. Do I have the right to get paid for my work?

You have a right to be paid for any work which helps operate or maintain the institution (laundry, sweeping floors, etc.). This does not include personal housekeeping tasks like making your bed; or vocational training like a sheltered workshop on grounds.

In state institutions, your pay for work done between February 1975 and June 30, 1977, should be a percentage of $1.15/hour, depending on your productivity. After June 30, 1977, you should get at least that much and maybe a little more if the state approves a pay raise this year.

For more information or assistance, call the Mental Health Legal Advisors Committee.

18. What are the requirements for wages in training programs and sheltered workshops?

See Section III (B) on Sheltered Workshops, below.

C. FRINGE BENEFITS

19. Are there any laws requiring employers to give fringe benefits like vacations and sick leave?

No, neither federal nor state laws require employers to provide vacation time, sick leave, holiday pay, group health insurance, or the like. These matters are between you and your employer. However, there are laws on overtime pay, child labor, safety of general working conditions, and so on. Contact the U.S. Department of Labor or Mass. Department of Labor and Industries for information (see Question 15 above for addresses).

20. Are there any laws preventing discrimination against the handicapped in fringe benefits?

Yes, the laws discussed in Question 1 forbid covered employers to discriminate on the basis of handicap in fringe benefits that are paid for by the employer.

D. EFFECT OF EMPLOYMENT ON PUBLIC BENEFITS

21. How does working affect my other benefits?

(1) Supplemental Security Income for the Disabled; Social Security Disability Insurance: You may be disqualified from these benefits if you work enough to no longer be considered totally and permanently disabled.

However, you may apply at the Social Security office for a "trial work period" of nine months (not necessarily consecutive) during which time Social Security will not use your working as a reason to say you are not disabled and disqualify you.

On SSI (but not Social Security Disability) the amount you earn affects the amount of your benefits. Your benefits will be reduced $1 for every $2 you earn beyond the first $65 per month. To avoid large reductions in your checks, you might consider making a self-support plan. For information on this and other aspects of SSI and Social Security, see Section VI(A) and (B) on Public Benefits.

(2) Mass. Rehabilitation Commission may provide several types of services to help you get or keep a job. Some of these services usually stop when your employment appears to be stable, but you may reapply later if you need further help. Other services are available without reapplying. See Section III (A) on Mass. Rehabilitation Commission.

(3) Your Medicaid will stop if you work too much to be considered disabled (unless you are under 21, over 65, or a parent of a dependent and meet certain other requirements). See Section V (F) for details.

If Medicaid has been paying for your personal care attendant, and you need the care in order to work, Mass. Rehab. may be able to help pay. See Section III (A) for details.

(4) Your Medicare will stop if you work enough to be taken off Social Security Disability Insurance, but it will continue if you are getting Social Security retirement checks. See Section V (G) on Medicare.

(5) If you are under 22, have special education needs, and do not have a high school diploma, going to work does not hurt your eligibility for special education (Chapter 766) services. See Section IX on Education.

(6) If you are on General Relief, your benefits will usually stop as soon as you start working, unless, for example, you have dependent children, or unless you only work part time.

(7) If you are on Aid to Families with Dependent Children, the effect of working depends on the kind of work, the salary, and whether you are a one or two parent family.

(8) If you get unemployment insurance, you may be able to work part-time and stay eligible, depending on the job and your salary. Your checks will be reduced. For details, see Section VI (G).

This is a brief listing; there are exceptions and more complex rules. Check with the office issuing your checks or services.

E. ACCIDENTS ON THE JOB: WORKMEN'S COMPENSATION AND THE SECOND INJURY LAW

22. What is workmen's compensation?

In almost all jobs, you are intitled to compensation if you are injured on the job and out of work for more than five days. Under Workmen's Compensation laws, your employer's insurer must pay for any reasonable medical expenses, related to the injury, and must provide a weekly payment or a lump sum based on such factors as your normal wages, the number of dependents, type of injury, whether you are completely or partially unable to work.

Once you go back to work full time and receive your former wages, you stop receiving Workmen's Compensation. There is a limit on the total amount of compensation your employer has to pay.

If you are seriously injured on the job, or in the course of doing a task required by your employer, it is a good idea to consult a lawyer to make sure you get as much compensation as you are entitled to. See Part Three, Section I (D) for a list of legal resources.

23. Who pays for Workmen's Compensation?

By state law, employers required to provide Workmen's Compensation must either have proof of ability to pay, or have insurance that will pay. The cost of insurance depends on factors such as the type of work, its hazards, and the company's accident rate.

24. I have epilepsy. I applied for a job and was rejected because my employer thought his insurance rates would go up. Is this true?

No. Insurance rates depend on severity and frequency of accidents for all workers in that occupation, not on who is hired to do the work.

In addition, a state law called the Second Injury Fund law (Mass. General Laws Chapter 152, Section 37) makes the

state help employers pay Worker's Compensation after you have received two years worth of benefits, if the effects of your job-related injury were much more serious because of a pre-existing disability.

For example, the Second Injury law would come into play if your epilepsy was made much worse by a blow to the head while on the job. But the law would not apply if you have epilepsy and are injured in the foot, since the effect of injuring your foot is not worsened by the fact that you already have epilepsy.

Your employer does not have to have known about your epilepsy or other pre-existing disability; your disability just has to have been medically established before the new injury.

F. AIDS TO EMPLOYMENT

25. What services are available to help me get or keep a job?

(1) The Mass. Rehabilitation Commission may be able to help. See Section III (A) of this Handbook.

(2) The Mass. Division of Employment Security has specialists in employment counseling and placement for handicapped workers. Contact the office nearest you (look in the phone book under "Massachusetts, Commonwealth of--Employment Security" for addresses).

(3) For persons with epilepsy, the TAPS program at the Epilepsy assists in job placement. (3 Arlington St., Boston, MA, 02116; (617) 267-4341)

III. VOCATIONAL REHABILITATION

Vocational rehabilitation is provided by three main agencies in Massachusetts. The Mass. Rehabilitation Commission is responsible for most vocational rehabilitation in Massachusetts, and assists people whose physical or mental disabilities are a substantial handicap to employment. There is also a new provision in the federal rehabilitation law for services to severely disabled adults who may never be employable.

Veterans are entitled to vocational rehabilitation through Veterans Services. They may also be eligible for Mass. Rehab. but would have to take advantage usually of resources at Veterans Services first. Contact your local Veterans Services office (usually located in town and city halls) or the main office for Massachusetts at 100 Cambridge Street, Boston, (617) 727-3578.

The Mass. Commission for the Blind is responsible for vocational rehabilitation for blind people. Contact the Commission at 110 Tremont Street, Boston; (617) 727-5550, or toll-free at 1-800-392-6450.

A. MASSACHUSETTS REHABILITATION COMMISSION

1. What services does Mass. Rehab offer?

Mass. Rehab offers most services needed to get and keep a job, such as:

--Evaluation of physical and mental disabilities and abilities;

--Counseling to develop a plan for employment, to assist in getting services from other agencies, and to follow the entire rehabilitation process;

--Medical equipment and services: hearing aids, wheelchairs, braces, surgery, physical therapy, occupational therapy, brief psychotherapy, personal care attendants, and so on, when necessary to make a person more able to get or keep a job;

--Post-employment services necessary to maintain a suitable job;

--Educational or vocational training programs in schools, sheltered workshops, on-the-job training;

--Support services to enable a client to participate in a training program such as transportation, living expenses, tools and supplies necessary for an occupation, day care for a client's children, adaptations to a home such as a ramp to allow greater independence for a physically disabled person;

--Job placement in sheltered workshops or regular employment.

2. Who is eligible?

First, you must have a physical or mental disability, which may include developmental disabilities and many others.

Second, your disability must be a substantial handicap to your getting or keeping a job or becoming an independent homemaker. You may be unemployed, underemployed, or not capable of continuing your present job.

Third, there must be a good chance that vocational rehabilitation will help you get or keep a job (whether in the regular job market, or sheltered workshops) or be an independent homemaker.

There are no income requirements, but if you earn above a certain amount you may be required to pay something towards any services other than counseling, diagnosis, evaluation, referral and placement.

All clients are placed in a priority category after they are found eligible. Priority categories are used to decide who gets "paid services" when there are not enough resources to go around. A paid service is any service besides counseling, diagnosis and evaluation, placement and referral; these five services are provided regardless of priority category. Highest priority goes to severely disabled people--those on SSI Disability or Social Security Disability, or who were eligible for Mass. Rehab before December 25, 1973.

Children may sometimes be eligible for Mass. Rehab services. The services they are eligible for or receiving from other programs such as special education will be taken into account.

Once your employment appears to be stable, you will be taken off Mass Rehab services in most cases. In some cases you will need to reapply if you need further help; other services do not require a reapplication if you need them later.

3. Are people in mental health or retardation institutions eligible for Mass. Rehab services?

If you are in an institution and meet the eligibility requirements, you have a right to Mass Rehab services. In determining whether you are eligible, the crucial factor is usually your ability to utilize vocational rehabilitation services. You may not be turned down simply because you are in an institution or because you do not have a discharge date yet. Mass. Rehab has an obligation now to give top priority to the severely disabled. Some consideration may be given to the services, if any, which you do or could receive from the institution.

If you are refused services, you may appeal. See Question 6 below.

4. How do I apply?

Contact your local Mass Rehab area office (see list, Part Three, Section I (A)). You will meet with a counselor to discuss your abilities, your rehabilitation goals, your disability, and Mass. Rehab. Services. Then you will be evaluated by specialists as to your disability. If eligible, you and your counselor will make a written plan of your goals, the services Mass. Rehab is to provide, your responsibilities, and a timetable. This plan is the key to your rights in Mass. Rehab, so be sure it says what you want it to.

If Mass. Rehab thinks you are not eligible you must be given the reasons in writing and in person. If the decision is based on a finding that you cannot be expected beyond a reasonable doubt to achieve a vocational goal, there must be a re-evaluation in 12 months. You may appeal any ineligibility decisions. (See Question 6 below.)

5. What is extended evaluation status?

If it is not clear whether vocational rehabilitation would help you get a job, you may be put on "extended evalua-

tion status" for up to 18 months. During this time you will get services on a trial basis. If it becomes clear that you will benefit in terms of later getting a job, you will be changed to regular status. If it becomes clear beyond a reasonable doubt that you will not benefit, your services will stop.

If your case has been closed, you may reapply if your situation changes. You have a right to appeal decisions about extended evaluation. See Question 6 below.

6. What are my rights in regard to Mass. Rehab?

An excellent booklet entitled "A Handbook for Consumers: How to Get the Most Out of Mass. Rehabilitation Commission" is available at Mass Rehab local offices.

At every step, your counselor should explain your rights and what to do if you disagree with a decision. You should first discuss your complaint with your counselor or your counselor's supervisor, and ask to see the law, regulation or policy behind the decision.

If you still disagree, you may request an administrative review of:

--Denial of eligibility
--The priority category you are assigned to
--Being put on extended evaluation
--Stopping or reducing your services
--Coercive or illegal actions by Mass. Rehab employees, including making you meet illegal requirements to get services; or charging too much for services.

To request an administrative review, write a letter to your local Mass. Rehab office within 10 days of the action; state your name and address, that you object to an action by Mass. Rehab, and that you request an administrative review. If not satisfied with the outcome of the review, you may appeal.

For further details on the review process, ask your Mass. Rehab counselor, or the Mass. Rehab Ombudsman in Boston, (617) 727-2184.

7. Are my records confidential? May I see them?

Your vocational rehabilitation records may only be shown to people directly concerned with your rehabilitation and only

if you give written consent. The only exception is if you need emergency medical or psychiatric treatment.

To get to see your records, write a letter to the Area Office Supervisor in your local office. You may be allowed to see all or part of them or a summary. If told you cannot see all of them because it would not be in your best interest, you may appeal. Ask the supervisor for details on appeals and access to records.

You also have the right to know what persons outside Mass. Rehab have seen your records and why.

B. SHELTERED WORKSHOPS

8. What is a sheltered workshop?

Sheltered workshops are places for people with mental or physical handicaps to work under special guidance to learn new work skills. Some workshops are for people who will eventually get a regular job; other workshops are for people who will always need a special work setting. Workshops may be in the community or at institutions. You may also get counseling, occupational therapy, or social skills training at workshops but the main activity is training in work skills.

9. Who is eligible? How do I apply?

Each workshop has different requirements. For information, see:

--Your Mass. Rehab counselor
--Your social worker
--Your welfare worker
--The Department of Mental Health area office
--The special education administrator at your school if you are under 22 and eligible for special education
--Mass. Commission for the Blind if you are blind
--Private organizations such as Associations for Retarded Citizens, Goodwill Industries, Salvation Army

For addresses, see Part Three, Section I (A).

10. What are my rights to get paid in sheltered workshops?

Most of the jobs in sheltered workshops are covered by minimum wage laws. In covered jobs, you have a right to be paid for your work and to know before you start what you will be paid. Workshops must usually pay you at least minimum wage ($2.65/hour in 1978). But they may pay less if they get a "certificate" from the U.S. Department of Labor, and/or the Mass. Department of Labor and Industries. Certificates for "regular work programs" and for an individual participant will set a minimum pay rate, based on the workers' productivity. Certificates for "work activity centers" (for more severely disabled people) and "evaluation and training programs" (most severely disabled clients) do not set a minimum.

For all types of certificates, you must be paid (1) a rate based on your own actual productivity (hourly or by the piece) or (2) the rate on the certificate, if any, and if higher. For example, if you work half as fast as the average non-handicapped worker, you should get half the prevailing wage for that work, or the certificate rate (if any), if it is higher.

If you work at 50% productivity for at least three months, you must be put on a "regular work program" certificate, which sets a minimum pay rate.

If you work a lot faster than everyone else in your workshop, you should therefore be getting paid more. If you work as fast as the average non-handicapped worker, you should be getting the same wages as the average worker, even if you are in a sheltered workshop.

Work that is covered by minimum wage laws cannot be done on a volunteer basis without pay, except for doing samples or being evaluated in an evaluation or training program

Your productivity should be tested regularly if you are on a piece work basis; or every six months if you are paid by the hour. Your wages should change as your productivity changes.

To find out if you are being paid enough, or to make a complaint, call:

U.S. Department of Labor
Wage and Hour Division
JFK Federal Building
Boston, MA 02203
(617) 223-5565

or

Mass. Department of Labor and Industries
100 Cambridge Street
Boston, MA
(617) 727-3476

11. Do I get paid for time I spend in tutoring or counseling sessions at the workshop?

This is up to your workshop. It is not required by law, but in Mass. Rehab workshops, you do get up to 3 hours per week of paid time for supportive services.

12. Should I be getting paid vacation and sick days?

This is also up to your workshop and is not required by law. Your workshop should show you their policy in writing before you start working.

13. Will my work allow me to collect Social Security eventually?

Some workshops provide Social Security coverage for their workers and some do not. Ask your workshop director or call your local Social Security office for information (see list, Part Three, Section I (A)).

14. Do sheltered workshops have to be accessible to people in wheelchairs?

In the following situations the answer is usually yes, unless the program has gotten an exemption:

--When the building is privately owned and was built or substantially altered after June 10, 1975 (Mass. General Laws Chapter 22, Section 13A);

--When the building is publicly owned and was built or altered after (federal Architectural Barriers Act);

--When the program operating the workshop receives federal financial assistance (federal Section 504 of the Rehabilitation Act of 1973); however, these programs have until 1980 to become accessible, and those with fewer than 15 employees are exempt;

--When the program is approved by Mass. Rehab, unless accessibility is physically impossible; in that case the program must look for accessible space as soon as the lease expires;

--When the program is regulated by the Department of Mental Health and approved for use or found to be used by mobility impaired people (DMH Regulations)

"Accessibility" generally means you can get in and out of the building, use the bathrooms and elevators, and get in and out of the main rooms inside. For details, see Section IV, Architectural Accessibility.

15. Are my records confidential?

Yes, your records cannot be released to anyone without your permission except in an emergency.

16. My supervisor won't let me keep all the money I make. Is this legal?

You are entitled to keep and manage all your earnings unless: (1) you are under guardianship or conservatorship; or (2), in Department of Mental Health-regulated programs only, if your program director determines you are incapable of handling a certain portion or all of your money. In this case your director must advise you in managing and spending this portion, but all your money still belongs to you and must be used only for your benefit. If you disagree with your director's decision, or feel your ability to handle money has improved, see Question 17 below.

17. What can I do if I have a complaint about a workshop?

First, talk to the head of your program and explain the problem and what you want done about it. Every workshop

should also have a written grievance procedure.

Workshops run by or regulated by the Department of Mental Health for mentally retarded people must have a Human Rights Committee to investigate complaints of client mistreatment and recommend action to protect clients' rights. (Department of Mental Health Regulations)

Other sources of help include the person who referred you to the program--your Mass. Rehab counselor, social worker, school official--and the state agency which licenses, regulates, or approves the workshop. If you need further help, see the list of legal resources, Part Three, Section I (D).

18. What is the effect of sheltered employment on my other benefits?

See Section II, Question 21 (Employment); and Section VI, Questions 6 and 16 (Public Benefits).

IV. ARCHITECTURAL ACCESSIBILITY

This section is a general guide to the architectural accessibility laws. More details are given in sections on Health Care, Housing, Transportation, Recreation, Education, Transportation, Employment, Vocational Rehabilitation.

1. What does accessibility mean?

There are several laws which set requirements for accessibility of buildings and programs to handicapped people. Each law defines accessibility somewhat differently; in general it means that people in wheelchairs, people who have difficulty walking, and blind and deaf people can use a building safely and easily. For example, there must be enough ramps, accessible entrances, elevators, and bathrooms to accommodate the number of people in wheelchairs who will be using the building; elevators must have warning bells for blind people, and warning lights for deaf people and so on.

2. Under the federal Architectural Barriers Act of 1968, what must be accessible? How is this law enforced?

(1) Buildings which are covered by the Act are:

Buildings used by the public or in which physically handicapped people may live or work must be accessible if constructed, leased or altered for the federal government or with the use of federal funds. Except for federal leased housing, this law applies when a covered building is constructed, leased or altered after 1969. Federal leased housing is covered if the lease begins or is renewed after January 1, 1977.

Both privately and publicly owned buildings meeting these conditions would be covered.

There are some exceptions, depending on the type and amount of alteration and other factors. Building owners may also get exemptions from the requirements under certain circumstances. Some types of transit vehicles are covered by the Act--subways, train cars, trolleys.

(2) Accessibility requirements under this Act are:

The standards of the American National Standards Institute must be followed. There must be enough accessible entrances, bathrooms, elevators, phone booths, drinking fountains, and so on to accommodate the number of handicapped people who would be using the building.

(3) Enforcement:

This law is enforced by:

Architectural and Transportation Barriers Compliance Board
Washington, D.C. 20201
(202) 245-1591

Your complaint must be in writing and contain the following information: description of barrier-related problem and location; name and phone number of person responsible for building or facility; names of building owner and tenant; name of federal agency involved; suggestions for solving the problem; and your name, address and phone number. The name of the handicapped person involved in the complaint must be kept confidential unless this right is waived. The Board must tell you within 60 days whether they will pursue your complaint. You do not have to have a lawyer or be present at any hearings. The Board can have federal funds withheld from the federal agency if it fails to make the building meet accessibility requirements.

3. Under Section 504 of the Rehabilitation Act of 1973, what must be accessible? Who handles enforcement?

(1) What must be accessible:

All activities and programs receiving federal funds must be accessible. This does not necessarily mean the building has to be accessible, but the program as a whole must be.

For example, a social services program may make home visits rather than making the office accessible. Or a university could offer one physics class in an accessible building rather than making all physics classrooms accessible. But the arrangements must allow you to participate in the most integrated setting possible.

When a building does have to be made structurally accessible, the changes must be made according to the standards of the American National Standards Institute, and must be done as fast as possible. Programs whose federal funding is from the Department of Health, Education and Welfare (HEW) must be accessible by June 1980 at the latest, and any new construction or alterations commenced after June 1977 must be accessible. Deadlines are somewhat different for programs with funding from other federal agencies, and are specified in each agency's regulations.

Small programs (fewer than 15 employees) which are funded by HEW may, instead of becoming accessible at great expense, refer you to someone else, after consulting with you and making sure the new place can take you. Similar allowances will probably be made for small programs with other types of federal funding.

(2) Enforcement:

This law is enforced by the federal agency supplying the funds. To make a complaint, send a letter to the nearest office of the federal agency involved, stating your name, address and phone number, the nature of your handicap, the name and address of the organization or building, the name of the person responsible for the lack of accessibility, a description of the problem, and the remedy you are seeking.

For details of how your complaint will be handled, addresses of agencies to make a complaint to, see Section I of this Handbook. If you need help finding out what agency to call, contact the Developmental Disabilities Law Center.

4. Under the Massachusetts architectural barriers law (Mass. General Laws, Chapter 22, Section 13A), what must be accessible? Who handles enforcement?

(1) What must be accessible?

Most buildings that are for public use and are constructed or substantially altered (a) after June 10, 1975 if privately owned, or (b) after 1968 if publicly owned, must be accessible.

Exceptions: (a) if an exemption has been made because the cost would be too high; or (b) certain types of buildings are covered only if they are over a certain height or employ more than a certain number of people or are over a certain size; or (c) buildings being altered do not have to meet these requirements unless the cost and extent of alterations are over a certain amount.

The following list shows how certain types of buildings must be accessible if they are covered

under this law. In general, public areas, must be accessible: walks, doors, elevators, or ramps in buildings over two stories, toilets, phones, drinking fountains, etc. Additional requirements are noted also.

Public sidewalks and ways

Public parking lots for 25 or more automobiles: must have a certain number of accessible parking spaces

Libraries: aisles between stacks must be at least 32" wide

Town halls, police and fire stations, court houses, polling booth locations, and other governmental facilities

Public and private schools, colleges and universities (including dormitories)

Public housing

Buildings constructed or altered by Mass. Turnpike Authority, Mass. Bay Transportation Authority, Mass. Port Authority, Mass. Parking Authority

Stores, shopping centers, restaurants and funeral homes: areas where service or product is offered to public, rest rooms, walks, stairs and primary entrance, aisles, and check-out lanes must be accessible.

Commerical buildings over two stories high in which 40 or more persons are employed (would include office buildings, but not factories open only to factory employees): spaces where service or product is offered to public must be accessible.

Hotels, motels, boarding houses, apartment houses, all with 20 or more units: 5% of units must be accessible and functional for use by handicapped; means of egress for all accessible units must be accessible.

Privately owned condominiums of 12 or more units: walks, primary entrances, lobby must be accessible.

Apartment buildings with 12 or more units: walks, primary entrances, lobbies, stairs, elevators (if any) and community facilities must be accessible.

Hotels and motels: general public function areas, recreation and meeting areas, restaurants, toilet rooms, walks, stairs, elevators (if any), primary entrance, and stairs and corridors leading to individual rooms used by handicapped must be accessible.

Public and private health institutions or facilities, including hospitals, clinics, sanatoriums, rest homes, nursing homes, rehabilitation centers, alcohol and drug detoxification centers, community health centers, mental health centers: curb cuts, toilet, walks, primary entrances, lobbies, stairs, elevator (if any), corridors and all examination and treatment rooms must be accessible.

Recreation facilities more than two stories in height or having an assembly capacity of 150 or more persons, including rinks, pools, gyms, arenas, stadiums: must have accessible means of egress. Also:

- Bowling alleys: must have two accessible lanes
- Pools: must be accessible
- Locker rooms: 5% of lockers must be accessible; showers adjoining must be accessible
- Parks, campsites and roadside parks: sidewalks, walks or walkways used as means of passage through the area and not as passage solely to recreational facilities must be accessible
- Spectator facilities: must have some accessible seating

Jails, prisons, reformatories, psychiatric hospitals: public areas must be accessible (except secure areas, as long as accessible areas are available to the physically handicapped detained person)

Transportation terminals, including airports, bus and train stations: must have overhead protection and/or snow-melting provisions around entrnaces; must have accessible egress, phone, toilet, fare transaction areas, entry gates.

Places of assembly for 150 or more persons, including theaters, auditoriums, armories, chapels, lecture halls: must have some accessible seating, toilets where required by other building codes

Houses of worship: must have accessible toilet room; egress, etc.

Restaurants including cafeterias, lounges, bars: must have egress through dining area at least 36" wide.

There are exceptions to these requirements, and the list does not include everything.

(2) Enforcement:

The agency which enforces this law is:

Architectural Barriers Board
One Ahsburton Place
Boston, MA 02108
(617) 727-6257

To make a complaint, call or send a letter including basically the same information as for the Architectural and Transportation Barriers Compliance Board, above.

You do not need a lawyer, and beyond the initial complaint you do not have to be involved unless you want to be. The Board will investigate your complaint and try to negotiate a solution with the building owner. If necessary, the Board can impose stiff punitive fines on buildings which refuse to meet the accessibility requirements. However, the Board can also grant exceptions to the requirements of this law.

5. What other state laws relate to accessibility?

Mass. General Laws Chapter 83, Section 25, says that curb cuts must be made whenever new curbs are provided for public sidewalks.

V. HEALTH CARE

A. YOUR RIGHTS TO HEALTH CARE

1. What medical services am I entitled to by law?

Medicaid--for people receiving Supplemental Security Income or Aid to Families with Dependent Children. Or who are low income AND (1) under 21, (2) over 65, (3) totally and permanently disabled, or (4) have a dependent child under 21 at home and either parent is absent, disabled, deceased or unemployed. If you are told you have too much income to be eligible, you may appeal. For more information, see Questions 12-17 below.

Medicare--for people receiving Social Security. See Questions 18-22 below.

Worker's Compensation--may cover medical expenses for job-related injuries. See Section II (E).

Department of Public Health services--the following are for the most part free, although you may be required to pay for some services if you can afford to.

Services for Handicapped Children--diagnosis, rehabilitation, medical treatment, medications, appliances, social services. Contact their office at 39 Boylston St., Boston; (617) 727-8196; or call a local public health hospital.

Preschools for handicapped children, age 3-6, integrated with able-bodied children. Call (617) 727-5812 at DPH.

Services for multiply handicapped children--evaluation, developmental day care (training in self-help skills, habilitative therapy), pediatric nursing home care, home support services. Call (617) 727-5822.

Public health hospitals--Lakeville; Lemuel Shattuck (Boston); Mass. Hospital School (Canton); Pondville; Rutland Heights; Tewksbury; Western Massachusetts (Westfield).

Division of Alcoholism--services for people with alcohol problems. Call (617) 727-1960.

Epilepsy Program--services include:

(1) For children under 21 with seizures: neurology clinics for diagnosis, medical treatment, social services, emergency treatment.
(2) Financial assistance for purchase of anti-convulsant drugs for children in neurology clinics and adults who do not have health insurance or medicaid or medicare.
(3) Information and referral services, on medical, vocational and advocacy issues relating to epilepsy.

Call (617) 727-5822 for information.

Department of Public Welfare runs Project Good Health, a very important program for children on Medicaid. Pays for preventive as well as emergency and acute health care. Call (617) 727-8084 for information.

Department of Mental Health provides a range of residential and non-residential services for developmentally disabled and mentally ill individuals. Contact your local DMH area office for information and assistance (see list, Part Three, Section I (A)').

Chapter 766 (Special Education)--the local school district is required under Chapter 766 to pay for medical services for special needs students if needed to benefit from educational programs. See Section IX on Education.

Veterans Administration--Veterans, their families and children (including adult disabled children) may be eligible for a great deal in the way of medical and financial benefits. Call your local Mass. Veterans Services office (usually found in town or city hall). The main state-run Veterans Service office is at 100 Cambridge Street, Boston (617) 727-3578. The federally-run Veterans Administration, which handles checks, pensions, and so on, is located in the JFK Building, Boston. Call toll-free at 1-800-392-6015.

Hill-Burton funds--hospitals which receive federal funds under the "Hill-Burton Act" must give a certain amount of free or low cost care each year to financially needy patients. To qualify you must have less than $4,000/year after taxes, plus $600 for each dependent (1978 figures). You may have more income if you have unusually large medical or other bills.

These hospitals must post an announcement about the funds and ask you before treating you if you need help paying for your care. You have the right to apply for these funds. If turned down, you must be given the reasons in writing and you have a right to appeal.

Some hospitals use up their funds right away at the beginning of the year; others spread their funds out over the year.

For a list of such hospitals, and assistance getting your rights under the Hill-Burton Act, call the Hill-Burton Program at the Department of Public Health (617) 727-7622.

Mass. Rehabilitation Commission--helps pay for rehabilitation and vocational services not covered by medicaid, insurance or other sources; for example, wheelchairs, physical therapy, psychotherapy, and so on. See Section III (A).

Free transportation to medical care may be obtained through Medicaid; transportation in wheelchair-accessible vans may be available through public transportation systems or services to the elderly (see Section VIII (C) and (D) on Transportation).

Other sources of free or low cost medical care:

Neighborhood health centers (ask about reduced fees)
Visiting nurse associations
Home health agencies
Dental schools, universities with physical therapy or rehabilitation departments, and other professional training schools

For information on local medical resources, ask the social service department of the nearest hospital, or one of the consumer groups listed in Part Three, Section I (B).

B. YOUR RIGHTS AS A MEDICAL PATIENT

2. What are my rights as a medical patient?

These are some of your rights as a medical patient. Your rights as a patient or resident in a mental health or retardation program are different (see Section XVI).

--Your informed consent must be obtained before you are made the subject of any experiments. You have the right to refuse to participate.

--You have the right to transfer to another hospital or clinic.

--For information about your rights in regard to records, see Question 6 below.

--Unless you are under guardianship, you have the right to refuse treatment. If the hospital has determined that your refusal is not in your best interest and is caused by your being not competent to understand the benefits and risks of treatment, the hospital may try to have a court appoint a guardian to make the decision for you. (See Section XIII on Competence and Guardianship.)

--You have the right to leave the hospital at any time. The hospital may ask you to sign a statement saying you left "against medical advice", as protection for the hospital against malpractice suits.

--Your informed consent is required for any non-emergency medical care. Separate written consent is required for surgery, anesthesia, and sterilization. (See Question 9, below.)

--Some hospitals now have "patients' advocates" to advise you of your rights and to help resolve any problems with the hospital.

3. I feel my doctor has mistreated me and given me very poor care. What can I do?

You can always change doctors or request another opinion.

The Board of Registration in Medicine has the power, though seldom used, to take way the license of a doctor who is guilty of very serious misbehavior or who is unable to practice medicine properly due to senility, alcoholism, or other impairments. Contact:

Board of Registration in Medicine
100 Cambridge Street
Boston, MA
(617) 727-3086

If you have suffered physical or mental harm from a doctor, you may be able to sue, depending on exactly what happened. Consult a lawyer. (See Part Three, Section I (D) for a list of legal resources.)

4. I have many complaints about the quality of care I receive in an institution. Where can I make a complaint and get some assistance?

Any public or private place giving medical care in Massachusetts must be licensed or regulated by federal, state or local government. Licensing standards and regulations set requirements for cleanliness, emergency facilities, qualifications of staff, services that must be available, the building and its condition, and many other things. For information about requirements and to register a complaint, contact:

For hospitals, clinics, and ambulatory (walk-in) care facilities:

Department of Public Health
Division of Health Care Standards
80 Boylston Street, Room 940
Boston, MA
(617) 727-5138

For nursing homes, rest homes, and state schools:

Department of Public Health
Long Term Care Division
80 Boylston Street
Boston, MA
(617) 727-5860

Your complaint will be investigated, and the Department of Public Health has authority to close down a program if it is not meeting the standards.

For complaints about nursing homes, you may also contact the Department of Elder Affairs (see addresses, Part Three, Section I (A)) or file a complaint with:

Public Protection Bureau
Attorney General's Office
One Ashburton Place
Boston, MA
(617) 727-6487

You may also contact a lawyer if you want to sue the institution or doctor. Whether suing will be worthwhile depends on the circumstances. For list of legal resources, see Part Three, Section I (D).

5. I am in a Department of Mental Health institution. What kind of medical care am I entitled to? Can I use my own private doctor? Can I go off-grounds to get medical care?

When you are admitted to a state hospital or state school you must be given a physical examination, and you must get one very year after that.

You have a right to get your medical problems treated. If the institution itself does not have the kind of medical care you need, you should be taken to a hospital or doctor elsewhere. Medicaid pays for this, if you do not have insurance or your own funds.

If the care you need is provided at the institution but you feel it is not adequate or you prefer to go elsewhere, you have a right to do so. You have a right at all reasonable times to be visited by your personal physician, to send letters unopened to your physician, and to make and receive confidential phone calls.

If you cannot pay for the medical care you seek elsewhere, Medicaid may cover it if you meet the eligibility requirements; the issue has not been settled yet, however; for an update, ask the Developmental Disabilities Law Center (294 Washington Street, Boston, MA 02108; (617) 426-7020).

It is your right to seek medical care elsewhere, as long as you can pay for it. You may have trouble convincing the institution of this, as it is not the usual procedure. You may also have difficulty if extra staff are needed to take you to your appointment, or if you need an ambulance to get there, or if you have been committed to the institution by a court and are considered dangerous or likely to escape. At the least, the institution should assist you in making arrangements for your private doctor to see you at the institution.

For more information on this issue, contact the Mental Health Legal Advisors Committee.

6. What are my rights to see my medical records?

(1) In a medical hospital or clinic (excludes those operated or licensed by the Department of Mental Health), or a private doctor's office, you have the right to see your records. Your records are private and may not be disclosed without your consent except in emergencies. (Mass. General Laws, Chapter 111,

Section 70; Amendments to the Mass. Regulations Governing the Practice of Medicine, Part VI-12: Requirements to Make Available Certain Records);

(2) For your rights in regard to your records at mental health or retardation projects, see Section XVI.

C. DISCRIMINATION AND ACCESSIBILITY

7. What are my rights to accessible medical care?

"Accessible" is defined in general as usable by people in wheelchairs or who walk with difficulty or who are blind or deaf. For more information on accessibility requirements under the state Architectural Barriers Board law and regulations, and how to make a complaint, see Section IV, Architectural Accessibility.

Under Section 504 of the Rehabilitation Act of 1973, all medical programs that receive federal funds must make their programs as a whole accessible to handicapped persons. This does not mean, for example, that every nutrition class offered by a hospital must be in a wheelchair-accessible location, but at least one should be, or alternative arrangements should be made for a wheelchair-bound person to attend.

Health programs with fewer than 15 employees, including private doctors who accept Medicaid, must: (a) have an accessible office; (b) treat you in an accessible hospital or your home; or (c) after consulting with you, refer you to another physician whose office is accessible.

If the only way to become accessible is to make structural changes, the changes must be made as soon as possible. For programs whose federal funding is from Health, Education and Welfare, the deadline is June 1980. In addition, new buildings must all be built to be accessible if any federal funding is involved.

For more information on requirements or how to make a complaint under Section 504, see Section IV, Architectural Accessibility, in this Handbook.

8. Am I protected against discrimination on account of my disability?

(1) Federal law (Section 504 of the Rehabilitation Act of 1973) makes it illegal for medical programs receiving federal funds to discriminate against you simply because you are handicapped. Federally funded programs must also make accommodation to your handicap--for example, provide an interpreter if you are deaf.

However, you must meet the usual requirements for being a patient in these programs. For example, 504 would not protect you from being turned away for inability to pay for your care. But 504 would protect you if you are turned away because you take more time or trouble to treat--for example, if you have trouble talking; or understanding things; or can't open your mouth easily for the dentist.

For more information on requirements or how to make a complaint, under Section 504 about discrimination, see Section I of this Handbook.

(2) A state law says you cannot be discriminated against by hospitals and clinics simply because you are blind or deaf. (Mass. General Laws, Chapter 272, Sections 92A and 98) To make a complaint, contact the police or local district court.

(3) According to federal law, medical care providers who take even one Medicaid patient do not have the right to reject other patients on grounds of being on Medicaid. To make a complaint, contact

Medical Division--Provider Review
Dept. of Public Welfare
600 Washington St., Room 8014
Boston, MA
(617) 727-8014

(4) A state law prohibits hospitals, clinics and other service providers from discriminating on the basis of being a recipient of public assistance. (Mass. General Laws, Chapter 151B, Section 4 (10)). To make a complaint, call:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-4400 or 727-8192

D. CONSENT

9. What is "informed consent" for medical purposes? Who must give it and when?

Informed consent means approval from a person who (1) is capable of understanding the implications of both consenting and refusing; (2) has been thoroughly informed of the benefits and risks involved; and (3) is not being coerced.

Except in emergencies, consent is required for all medical care. Doctors who do any medical procedures on a person without consent could be sued for assault and battery. However, in an emergency, doctors may treat without consent if there is a threat to life, limb, or bodily function.

In most cases, doctors and hospitals decide for themselves whose signature they are willing to accept on a consent form to protect themselves from malpractice suits. If you are incapable of consenting, some hospitals will accept your parent's signature even if you are an adult. Other hospitals will only accept a guardian's signature if you are incapable.

If you are 18 or over and capable of making an informed decision, your signature should be adequate. If your signature is refused because you are from a mental health or retardation program, or have a disability, you may have grounds for legal action. See list of legal resources, Part Three, Section I (D).

In medical decisions involving the right to withhold life-prolonging treatment, Massachusetts courts have ruled that no one but the individual patient can make that decision. If the patient is mentally incompetent, the decision must be made by a judge; a guardian does not have the right to make that kind of decision in Massachusetts. (This ruling was made in the case of Superintendent of Belchertown v. Saikewicz, 370 N.E.2e 417 (1977).)

E. MEDICAL BILLS

10. What can I do if I think my medical bill is inaccurate or too high?

Ask for an itemization of the bill and discuss it with the doctor, hospital, etc. If you still think it's wrong:

(1) Doctors, dentists or other professionals may have their licenses taken away for billing for services they did not provide. Contact the Board of Registration. The Board cannot, however, handle complaints about size of fees.

Mass. Board of Registration
100 Cambridge Street
Boston, MA

Board of Registration in Medicine (doctors, psychiatrists): (617) 727-3086
Board of Registration, Dentists: (617) 727-3067
Board of Registration, Psychologists: (617) 727-8108

(2) The Mass. Medical Society is a professional organization which doctors may belong to. You may send a written complaint. The ethics committee will review it, send a copy to the doctor, and possibly bring the doctor before the committee. The Society does not have power to take away licenses or to discipline, but the opinion of colleagues may be very important to a professional.

Mass. Medical Society
22 The Fenway
Boston, MA
(617) 536-8812

(3) If you disagree with what Medicaid or Medicare says it will cover, see Questions 16 and 22 in this Section for what to do.

(4) If you disagree with what your insurance company says it will cover, see Section XII on Insurance.

(5) If you are billed for services you did not receive you may make a complaint to:

Consumer Protection
Attorney General's Office
One Ashburton Place
Boston, MA
(617) 727-8400

(6) For problems with hospital bills: first talk to the hospital. If you cannot reach an agreement, contact a consumer rights' organization (see Section XI (D) for a list).

In addition, the Mass. Rate Setting Commission tells hospitals, clinics and other medical services how much they can charge. You can find out whether a certain charge is way out of line with permitted rates, but the Commission cannot handle individual cases.

Mass. Rate Setting Commission
One Ashburton Place, Boston, MA
(617) 727-1150

(7) If your unpaid bill has been turned over to a collection agency, you have some rights in regard to the actions a collection agency may take. See Section XI (D) on Consumer Rights for details.

In general, most medical services are covered by consumer protection laws, and you are entitled to basic rights such as:

--It is illegal to persuade someone who cannot read or write or understand a contract to sign a contract, whether it is for goods (like wheelchairs) or services.

--Estimates of the cost of repairing things like medical equipment, such as a wheelchair, or of providing a certain service, may not be deliberately underestimated.

--Advertising of products must be truthful. A crutch which is supposed to bear the weight of a 200-pound person should in fact do so, or your money back.

--You may not be charged for repairs that you did not authorize.

For details, see Section XI (D) on Consumer Rights.

11. What should I do if I can't pay a medical bill?

(1) See if you are eligible for help from Medicaid, insurance, welfare, Hill-Burton funds, etc.

(2) Figure out what you can afford to pay, being realistic. Then tell the doctor, hospital or druggist your problem. See if there is any possibility of getting the fee reduced.

(3) Make a written agreement with the doctor, hospital, etc. as to how much you will pay and how often--weekly, monthly, etc.

(4) If you can't make your usual payments, write a letter in advance stating why and when you expect to begin payments again.

(5) It is much better to send a little than nothing at all. If you owe money to several places, pay a little on each one rather than a lot to one and nothing to the others.

For more information, see Section XI (C) on Debts.

F. MEDICAID

Medicaid, also known as Medical Assistance (MA), will pay for some or all of your medical care if you are eligible. You may be able to get Medicaid in addition to other health insurance programs.

The Department of Public Welfare handles the Medicaid program in Massachusetts, takes applications, sends payments, handles appeals, and answers questions. For a list of local Welfare offices, see Part Three, Section I (A).

12. Who is eligible for Medicaid?

--You are eligible if you receive Supplemental Security Income (see Section VI (A)), or Aid to Families with Dependent Children (see Section VI (E)).

--You may be eligible if your income is within certain limits, and

  --You are under 21, or
  --You are over 65, or
  --You are totally and permanently disabled, or
  --You have a dependent child under 21 (yours or a relative's) and either parent is absent, disabled, deceased, or unemployed.

--You may be eligible if you are on General Relief but the benefits are more limited. See Question 15 below.

13. What are the income limits?

They are based on family size and allow for many deductions. Many disabled people who earn too much for SSI may be eligible for Medicaid, especially if they have big medical bills.

You may be eligible even if you own a home.

If you are told you are "denied Medicaid because of excess income", you may appeal this decision (see Question 16 for details) or you may be eligible for Medicaid to pay some of your medical bills, up to the amount your income exceeds the income limit. Save all your bills and bring them to the Welfare office.

14. How do I apply?

You can apply in person or by mail at your local welfare office (check the phone book under "Massachusetts, Commonwealth of -- Public Welfare"). You may be asked to show proof of your income, and medical evidence if you are applying as a disabled person. For tips on meeting the disability requirements, see Section VI (A), Questions 2 and 3.

Medicaid may pay for medical bills from the three months before you applied, if you would have been eligible then. Ask for the special application form for this.

You have the right to a decision on your eligibility within 30 days except in unusual circumstances.

If you are turned down, you have a right to written reasons, and the right to a hearing on the decision. See Question 16 for details.

15. What does Medicaid cover?

--Hospital services as in-patient and out-patient
--Physician services
--Nursing home and chronic hospital care
--Home health services--personal care attendants to assist severely disabled persons with daily personal care; chore services for cooking, etc.
--Transportation to medical care
--Homemaker/home health aide
--Neighborhood health centers
--Lab services
--Personal care attendants
--Private duty nursing

--Health Maintenance Organizations
--Some day habilitation programs
--Prescription medicines
--Speech, hearing, occupational and physical therapy when ordered by physician
--Eye care
--Some dental care
--Hearing aids
--Family planning services, including sterilization
--Wheelchairs, crutches, braces, etc.
--Health services in clinics
--Mental health services in mental health clinics, neighborhood health centers, general hospitals, psychiatric day treatment centers; public psychiatric hospitals if you are over 65. No private psychiatric hospitals. Private practice psychiatrist.
--Some evaluations of children for Chapter 766 (special education)
--Mental retardation day habilitation services
--Project Good Health services--comprehensive and preventive health care services for children under 21 (very important for developmentally disabled children)

You have the right to choose where you get these services, as long as the place accepts Medicaid.

Sometimes you must get approval from Welfare before Medicaid will pay for something. You have a right to a hearing if Welfare will not approve something. (See Question 16 for details.)

If you are on General Relief your medical benefits are more limited and include: life-saving drugs, artificial limbs, home nursing, dental care, clinic care, lab fees not in hospitals, durable medical equipment, family planning in a physician's office, home health care when ordered by physician, sppech and hearing and occupational therapy,psychotherapy in a doctor's office.

The following are not covered if you are on General Relief: in-patient or out-patient hospitalization, long-term care in a nursing home, chronic care, psychiatric care other than in a doctor's office.

16. What are my rights under Medicaid?

You must be given notice before being taken off Medicaid for any reason, or before your benefits can be reduced. If you don't receive notice, you have a right to a hearing.

Your records cannot be released to any person or agency without your written consent. You have the right to review

your case record and get copies (for a small fee). If you feel any information is inaccurate, your records must be changed or your objections put in writing and included in the record. To see your records, ask your welfare worker.

A state law prohibits hospitals and clinics from discriminating on the basis of being a recipient of public assistance (such as Medicaid). (Mass. General Laws, Chapter 151B Section 4(10)). To make a complaint, contact:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-4400 or 727-8192

If a doctor or hospital accepts any Medicaid patients at all, under federal law they are not allowed to turn away other patients just because they are on Medicaid. If you feel you have been discriminated against in this way, contact:

Medical Division--Provider Review
Dept. of Public Welfare
600 Washington Street--Room 8014
Boston, MA
(617) 727-8014

Doctors, hospitals, and others who take Medicaid cannot charge you for services covered by Medicaid.

If you have a complaint about the quality of care you received that was paid for by Medicaid, call the Dept. of Public Welfare, Provider Review (address above).

You have a right to a hearing when you disagree with any decision, action or inaction on your Medicaid. To request a hearing, ask your local welfare office for an appeal blank. Fill it out and send it to:

Dept. of Public Welfare
Appeals Division
600 Washington St.
Boston, MA
(617) 727-6050

You must do this <u>within 30 days</u> of the decision you disagree with. You will be told when your hearing will be, and you may bring an advocate or lawyer. If dissatisfied with the outcome, you have <u>60 days</u> to appeal by asking for a hearing before a referee. If not satisfied with those results, you may go to Superior Court.

Your appeal rights are usually written on the back of any notice about ending or reducing your Medicaid.

17. Where can I get further information or help?

The place to start is your welfare worker; next, your worker's supervisor, then the regional office which is above your local office, then the central Welfare office in Boston. Ask your welfare worker for addresses. You may also call a legal services office. See the list of legal resources, Part Three, Section I (D) for further assistance.

G. MEDICARE

18. What is Medicare?

Medicare, which is not the same as Medicaid, is a federal health insurance program mainly for people receiving Social Security disability or retirement checks.

Medicare has two parts: Part A, hospital benefits, and Part B, medical benefits.

19. Who is eligible for Medicare?

(1) If you receive Social Security Disability (a green check, not the same as SSI), you may receive Medicare after two years. Part A is free; Part B will cost you $8.20/month (1978 rates), which may be covered by Medicaid if you are on Medicaid, or by a private health insurance plan.

(2) If you receive Social Security retirement checks, you get both Part A and Part B free.

(3) If you are over 65 and not on Social Security, you may get Medicare by purchasing it.

You may have both Medicaid and Medicare.

If you stop receiving your Social Security checks, you will also stop getting Medicare coverage.

20. How do I apply?

Social Security will usually notify you of your future eligibility just before you retire, or just before your 24th month of receiving disability checks. However, to be safe, you should take the initiative and contact your local Social Security office (see list, Part Three, Section I (A)) several months before you will be eligible.

21. What does Medicare cover?

Part A (hospital benefits) covers "reasonable and necessary" costs in participating facilities. It does not cover custodial care, and usually does not cover 100% of even the reasonable and necessary costs.

There are several very important rules you should know about how many days of hospitalization, the percentage of the cost, and the types of hospitalization Medicare will cover. These rules are explained in "Your Medicare Handbook", a very useful free pamphlet available from your Social Security office.

Part A covers (with some exceptions):

--Inpatient care in a hospital--room and board, nursing, drugs, lab tests, x-rays, rehabilitation services, medical supplies, use of appliances such as wheelchair, operating and recovery room costs, intensive care, etc.
--Some care in psychiatric hospitals
--Inpatient care in nursing homes, except custodial

Part B covers many medical bills, but there are a number of restrictions. Generally:

--Doctors' services: medical and surgical, diagnostic tests, x-rays, drugs, medical supplies, physical therapy, etc.
--Outpatient hospital care--emergency room, outpatient clinic, lab tests, medical supplies, drugs
--Outpatient physical therapy and speech pathology
--Home health care--nursing, physical therapy, speech therapy, home health aides, medical social services, etc.
--Ambulance, equipment such as wheelchairs, and other costs.

22. What are my rights under Medicare?

You must be notified in advance before being taken off Medicare. If you disagree with any decision by Medicare, such as what Medicare will or will not cover, you have a right to a reconsideration and appeal. Call your local Social Security office for details.

In Massachusetts a private company called Blue Cross/Blue Shield handles all the bills and payments for Medicare (this does not mean you have Blue Cross/Blue Shield insurance). If you have questions about what Medicare will cover, or about a bill or claim, first contact:

Blue Cross/Blue Shield
100 Summer St.
Boston, MA
(617) 956-4000

If you need further assistance, call your Social Security office, which can intervene with Blue Cross/Blue Shield in Medicare matters.

For information on your rights in matters of health insurance and life insurance, see Section XII.

VI. PUBLIC BENEFITS

A. SUPPLEMENTAL SECURITY INCOME (SSI)

1. What is Supplemental Security Income (SSI)?

Supplemental Security Income (SSI) is a program to guarantee a minimum income level. You can get SSI whether or not you qualify for Social Security. SSI, which is based on your income, is not the same as Social Security, which is based on the amount you have worked (see Questions 11-16 below on Social Security).

There are three categories of SSI: (1) over 65 (SSI for the Aged), (2) blind (SSI for the Blind), or (3) disabled (SSI-Disability). You do not have to have worked in order to receive SSI, as you do for Social Security. The amount you get depends on income and living arrangements, and your income must be below a certain amount.

The information below is about SSI-Disability only.

2. Who is eligible?

Both children and adults may be eligible. You must meet two requirements:

(1) Financial--low regular cash income, little property or assets. You may be eligible even if you work, or own a car or home, or receive other benefits like Social Security.

When a child living at home applies for SSI, some of the parents' assets and income is counted. With a disabled adult, some of the spouse's income and assets is counted.

(2) Disability--adults must be unable to engage in substantial gainful activity because of a physical or mental impairment which has lasted or is expected to last at least 12 months or result in death. Children must have an impairment of similar severity.

You may have a single disabling condition, such as severe cerebral palsy, or several less serious conditions, such as mild retardation and a bad back, which together prevent you from working.

3. How do I apply?

If you are in an institution, your social worker should help you apply. For assistance in getting benefits for a disabled child, see the nearest Help for Children office (see list, Part Three, Section I (A)). Otherwise, call your local Social Security office (see list, Part Three, Section I (A)) for details on eligibility and what to bring when you apply.

You will need medical proof of your disability--letters from doctors, hospital records, names and addresses of places you have gotten treatment, and any social workers, school principals, or institution superintendents involved.

It is important for your doctor to know what to say in writing a letter for you. A helpful booklet is the SSI Handbook for Physicians and Other Who Work with Disabled and Blind Children, by Marsha Wainerman, Mass. Committee for Children and Youth, 14 Beacon St., Suite 706, Boston, 02108.

You will also need a list of the kinds of daily activities and work activities that are painful, difficult or impossible for you because of your disability: such as dressing, writing, speaking, reading, lifting, driving, working independently, sitting, standing, working with your hands, tolerating fumes, hearing, bending over, walking, doing specific aspects of your last job, and so on. Be sure to include all your problems, major and minor, as well as any pain or fatigue that results from your condition.

You will also need to document your work history and show why you are incapable of "substantial gainful employment" for a 12-month period; for example: lack of experience, lack of skills, inability to continue doing the job you used to do, need for a lot of supervision, and so on. If you have been working, stress the uniqueness of that particular job situation and the difficulty or impossibility of getting another job--for example, if you were working for a relative and would have trouble finding another employer; or if the job you were trained for no longer exists in the economy; or if your disability has worsened and you cannot do the same work; and so on.

If more medical examinations are needed, Social Security will pay for them.

The application process may take 2-3 months. Keep in touch with Social Security to make sure they have all the records needed.

You may be eligible for General Relief (see Questions 15-18) if you need money while waiting for SSI. Or you may be able to get an emergency advance from Social Security.

4. What services and benefits will I get from SSI?

(1) Monthly cash payments. The amount depends on your other income and whether you live alone, with other people or in certain institutions. You can work and earn up to $65/month without any reduction in your check. The check is reduced $1 for every $2 in job earnings over $65/month.

Income other than job earnings--such as Social Security checks or gifts--beyond the first $20/month generally reduces your check.

People living in tate schools and eligible for SSI get $25/month . People in Massachusetts state mental hospitals can only get SSI ($25/month) if they are under 21 or over 65. Your SSI is for your personal use, not for the cost of your care.

Residents in public or private institutions (nursing homes, medical hospitals, etc.) in which Medicaid pays more than half their care may get $25/month in SSI, again only for your personal use.

Residents in private institutions not receiving Medicaid may get the full SSI payment.

(2) You are automatically eligible for Medicaid and social services (called "Title XX social services") from other government agencies such as counseling, vocational training, independent living skills, housekeeping help, arrangements for meals or transportation. Ask your local Public Welfare office for details. For information on Medicaid see Section V (F).

(3) Children on SSI are eligible for services from the Department of Public Health's SSI Disabled Children's Unit. The program is in its beginning stages at this time. Contact Help for Children if you need help applying (see list, Part Three, I (A).) Or contact the SSI Disabled Children's Unit at Dept. of Public Health, 39 Boylston Street, Boston (617) 727-5822.

(4) You may be required to participate in vocational rehabilitation through Mass. Rehabilitation Commission in order to

keep getting SSI.

(5) People on SSI are not eligible for Food Stamps in Massachusetts.

5. How does working affect my SSI?

(1) Your checks will be reduced $1 for every $2 you earn over $65/month.

(2) The amount you earn effects whether you are considered disabled. Under $150/month, you are usually considered disabled; between $150-$230/month, it depends on the kind of work and impairment; over $230 /month usually you are not considered disabled unless you can prove otherwise. If your earnings are from a sheltered workshop, you are more likely to stay eligible for SSI.

6. What is a trial work period?

If you want to try working without jeopardizing your SSI, you can tell Social Security you want a trial work period. You may then work up to nine months and the fact that you work cannot be used to say you are no longer disabled. The nine months do not have to be consecutive. You can start and stop. After nine months of work, Social Security will decide if your earnings and type of work mean you no longer meet the SSI definition of disabled. If you are judged no longer disabled, then your SSI will end after two more months (an "adjustment period"). If not you will continue getting SSI.

7. What is a self support plan?

If you have a source of income in addition to SSI (such as Social Security or a pension or earnings) and are told you earn too much to get SSI, you might consider making up a self-support plan with the help of a rehabilitation counselor. You agree to set aside each month for a certain period of time the amount by which you are over-income. This money should go for something that will help you become self-sufficient--a training program, a college degree, a special piece of adaptive equipment, other supplies, a car. If Social Security approves the plan, the amount set aside will not be counted in determining your eligibility or the amount of your checks.

8. What is a representative payee?

If Social Security has dtermined that you are not capable of managing your checks properly, a representative payee will be appointed to sign your checks and manage them. For more information, see Section XIII (D) on Representative Payees.

9. What are my responsibilities in SSI?

You must report to Social Security any of these changes: address, entering or leaving an institution, leaving the country, marriage, divorce or separation, change in income or resources, entering or leaving school, change in living arrangements, change in your contribution to household expenses.

10. What are my rights in SSI?

(1) Lost, stolen, missing checks--contact Social Security, which can issue a new check within 3 days. To prevent such problems, you may have your checks sent directly to your bank for deposit. Ask your bank and Social Security for details.

(2) Checks smaller than you think they should be--ask why. If you disagree, you may appeal. See (5) below.

(3) Checks larger than they should be--notify Social Security right away, or you may have to pay them back. If the overpayment was not your fault and you had no way of knowing it was an error, and if paying the money back would be a hardship, you probably do not have to pay. You may need an advocate to help you negotiate this.

(4) If you are found not eligible for SSI, you must be notified in writing. If your checks are stopped or reduced, you must be notified 30 days in advance in writing. First ask for reasons. If you disagree with the reasons or were not notified, you may appeal. See (5) below.

(5) To appeal SSI decisions on your eligibility, size of benefit or other problems, you must make a written request within 60 days for a "reconsideration" of the decision. Write to your local Social Security office. If you call, follow up with a letter.

You must be told the date and time of the meeting on the reconsideration at least 10 days in advance, and you may bring an advocate. If you are not satisfied with the outcome of the meeting, you may appeal again. Your local Social Security office should explain the appeal process in detail to you. If not satisfied with the results of the appeal, you may appeal to court.

Legal services offices handle many SSI problems, and may be able to provide you with assistance. See list of legal resources, Part Three, Section I (D).

B. SOCIAL SECURITY

11. What is Social Security?

Under Social Security, which is not the same as SSI, workers pay into a Social Security fund during their working lives. When they retire or become disabled, they receive monthly checks from Social Security based on the amount they paid in. Social Security does not depend on your having a low income, as SSI does.

12. Who is eligible?

You can get Social Security either because you yourself have worked and paid into Social Security, or because your parent or spouse did. Specifically:

(1) If you have worked a certain length of time in a Social Security-covered job, you can get Social Security either:
   (a) When you retire at age 62 or older (retirement checks) or
   (b) If you become disabled (disability checks or SSDI).

(2) If your parent (or in some cases your grandparent) has worked and is getting Social Security retirement or disability checks, or is covered by Social Security and dies, you can get Social Security:
   (a) If you are disabled before the age of 22 (your benefits would start at age 18; this is SSDI for an Adult Disabled Child); or
   (b) If you are unmarried and under 18 (or under 22 if a full time student; this is SSDI for a dependent child).

(3) If your spouse has worked and is getting Social Security retirement or disability checks or is covered by Social Security and dies, you can get Social Security if you are a wife or dependent husband and elderly (see Social Security for details on this kind).

To be considered disabled you must have a physical or mental condition which prevents you from doing substantial gainful work, and is expected to last at least 12 months or result in death.

Disabilities are evaluated for Social Security the same way as for SSI. See Questions 2 and 3 above. Your medical condition and your age, education, training and work experience are all taken into account.

To be "covered" by Social Security, a worker must have worked a certain length of time in a Social Security-covered job. Check with Social Security for details.

13. How do I apply?

The process is the same as for SSI. See Question 3 above.

If you are found eligible, you must usually wait five months and the payments will start in the sixth month. However if you were disabled before age 22 you may get benefits as soon as your parent starts getting benefits. You may also apply ahead of time.

If you have been disabled more than six months before you apply, you may be able to get up to 12 months of back payments. Ask about the procedure to apply for this. If you recovered from a disability which lasted 12 months or more you may be eligible for back payments. You must apply within 14 months of your recovery.

14. What services and benefits will I get from Social Security Disability?

(1) You will receive cash payments; the amount depends on your work history and past salaries.

(2) You are eligible for Medicare Part A (hospital benefits) after being on Social Security Disability for two years. See Section V (G) on Medicare.

(3) You may be required to participate in Mass. Rehabilitation Commission services. See Section III (A) on Mass. Rehab.

15. What is a trial work period for Social Security Disability?

It is the same as for SSI Disability. See Question 5 above.

16. How does working affect my Social Security?

(1) Earnings--no matter how much you earn, you checks will not be reduced if you get Social Security Disability; however, the fact of your working may be used to say you are no longer disabled enough to be eligible. If you get retirement checks or checks because you are under 18 and your parent receives Social Security, your checks may be reduced. Ask Social Security for details.

(2) Disability--Generally, you may earn up to $230/month and still be considered disabled. But between $150-230/month Social Security will also consider your hours, duties and job performance, and may stop your benefits if you seem capable of substantial gainful work. Usually a sheltered workshop, even if full time, is not considered substantial or gainful. To be safe, be sure you earn less than $230/month and that you only work part-time.

17. What is a representative payee?

It is the same as in SSI. See Question 8 above.

18. What are my responsibilities to Social Security?

You should notify Social Security if you move, your disability improves, or you start working.

19. What are my rights in regard to Social Security?

You have a right to a hearing if your application is rejected, your benefits are reduced or stopped, your application is not acted upon within a certain period of time, or you disagree with any decision by Social Security in your case. The procedure is the same as for SSI to request a reconsideration. See Question 10 above.

Your Social Security records are confidential and may not be shown to any person or agency without your written permission. You have the right to see your records and to correct any errors or inaccuracies.

For any problems with Social Security, first try to get help from your local Social Security office; then from the regional office; and finally from the Social Security Ombudsman in Boston (223-0402), whose job is to help you straighten out such problems. If these alternatives do not work, consult legal aid (see list, Part Three, Section I (D)).

C. GENERAL RELIEF

20. What is General Relief?

General Relief is a state-funded program which provides cash payments to people who are financially needy, unemployable, and ineligible for other welfare programs. General Relief recipients are eligible for food stamps and certain medical benefits.

21. Who is eligible?

--You must live in Massachusetts.
--You may own personal property up to $250 (excluding a car)
--Your financial needs must be greater than your income, based on your living arrangements, rent, deductions, medical expenses and so on.
--Unless you have dependent children, you must be unemployable due to being mentally or physically incapacitated, an addict or alcoholic or aged, or in certain cases a student.

If you have dependent children, to get General Relief you must register for work at the Division of Employment Security. (Aid to Families with Dependent Children may, however, give better benefits if you are eligible.)

You cannot get General Relief if:

--You are a student (with certain exceptions)
--You are eligible for veteran's benefits, AFDC, unemployment insurance, or SSI (unless you have applied for SSI Disability and are waiting for it to come through).
--You are voluntarily unemployed without a good reason.

In general, General Relief is for people who are too sick to work but not disabled enough for SSI, or for people with dependent children who haven't been able to find a job.

22. How do I apply?

Apply at the local welfare office (check phone book under "Massachusetts, Commonwealth of -- Public Welfare"). Within two weeks afterwards you will get a decision. Meanwhile, you can get emergency food stamps. You can also get shelter payments, the cost of which will be deducted from your first checks. If you are turned down, you may appeal. See Question 24.

23. What does General Relief (GR) provide?

The amount of your cash payments will be the difference between your income and your financial need, up to a maximum.

You are also entitled to certain medical services (see Section V (F)), and you may be eligible for Food Stamps (see (D) below).

24. What are my rights in regard to General Relief?

You have a right to appeal within 60 days any decision to deny you your eligibility or stop or reduce your benefits. For information on the process, call your local welfare office.

D. FOOD STAMPS

25. What are Food Stamps?

Food stamps are government coupons which you can use to buy food at lower cost. The information below is effective March 1, 1979.

26. Who is eligible?

(1) You and all the members of your household must have less than $1705 in resources (bank accounts, stocks and bonds, etc.). This does not include car (worth less than $4500), furnishings, house, personal belongings, property used to earn income or property necessary to cope with a handicap. If a person in the household is elderly, the limit is increased to $3000.

(2) Your income after deductions must fall below a certain level. This level takes into account part of your rent and utilities if more than 50% of your income, and child care expenses.

(3) If you are on SSI, you cannot get Food Stamps. If you get other kinds of benefits, you may be eligible depending on your income.

(4) If you are able to work, you must register to work. But you have the right to reject an unsuitable job and still get Food Stamps.

27. How do I apply?

Ask the local welfare department (see phone book under "Massachusetts, Commonwealth of -- Public Welfare") where and how to apply or call 1-800-882-2016, toll-free. You should get a decision on your eligibility within 30 days of applying.

28. What do Food Stamps provide?

Each household gets a total monthly allotment of Food Stamps, based on household size, income and resources. Food

Stamps can be obtained at places like post offices and banks. Emergency food stamps may be available to households in dire need.

29. What are my rights and responsibilities in regard to Food Stamps?

You must report all income changes. However, a change of $10/month or less will usually not have any effect.

You have a right to a hearing if you are told you cannot apply, if you apply and are turned down, if you do not get a decision on your eligibility within 30 days, or if your food stamps are stopped or decreased. You must be notified in advance before your Food Stamps are stopped or decreased.

Contact your local welfare office for details on how to request a hearing.

E. AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

30. What is Aid to Families with Dependent Children (AFDC)?

AFDC provides cash payments and social services to low income families with children. Families on AFDC are automatically eligible for Medicaid and social services, and under certain conditions may get Emergency Assistance (see (F) below) or Food Stamps (see (D) above).

31. Who is eligible?

(1) You must be in financial need and meet the requirements for amount of income, property, savings, and so on;

(2) Your children must be under 18 (or under 21 if in school or training); and

(3) One of the child's parents must be absent, deceased, disabled, or unemployed.

In addition, the parent living with the children may have to register at the local Division of Employment Security office for work or training.

32. How do I apply?

Apply at your local welfare office. (See phone book under "Massachusetts, Commonwealth of -- Public Welfare.") You are entitled to a decision within 30 days, and your benefits will be counted from the date you applied.

Once you apply, you can get food or shelter vouchers immediately if you need them.

33. What are my rights in regard to AFDC?

You have a right to be notified in writing before your benefits are stopped or reduced.

You have a right to a decision on your eligibility within 30 days of applying.

Your records are confidential. You can see your records and get copies (for a small fee); you have the right to object to anything in your records that is wrong, and the records must either be changed, or your objection must be included.

You have a right to a hearing if you are dissatisfied with any action or inaction on your AFDC benefits by the welfare office. For example, you can have a hearing on an unreasonable delay, denial of your applicaton, or stopping or reducing your payments.

You must make the request for the hearing within 30 days of the decision you disagree with. Your welfare office should give you details and help you with this, or you can contact legal services (see list, Part Three, Section I (D)).

You have the right to have the same worker who processed your AFDC application process your Food Stamp application.

F. EMERGENCY ASSISTANCE

34. What is Emergency Assistance?

Emergency Assistance consists of special payments through the Department of Public Welfare for emergencies such as:

--Eviction for non-payment of rent
--Utility shut-offs for non-payment
--Emergency shelter up to 30 days if you have no place to go
--Children's bedding
--Moving expenses (up to $100)
--Repairs on a home you own, if necessary for your health and safety, or to avoid having to move
--Disasters (fires, floods)

35. Who is eligible for Emergency Assistance?

You must be on AFDC or General Relief, or you must have a low income and meet certain other requirements. Ask your local welfare office for details.

36. How do I apply for Emergency Assistance?

See your local welfare office. You will have to bring proof of income, expenses, and so on.

You may only get E.A. once in any 12-month period, so be sure to ask for everything at once during the 30 days you are eligible.

G. UNEMPLOYMENT INSURANCE

37. What is unemployment insurance?

You may be entitled to weekly cash payments if you are unemployed and meet certain requirements. Most employers are required to pay into a state fund for unemployment insurance.

38. Who is eligible to collect unemployment?

(1) You must have earned a certain minimum amount in the past 52 weeks.

(2) You must be out of work, or working only part-time. Your benefits are lower if you are working part-time.

(3) You must be physically able to work, available to work, and trying to find a suitable job.

You may not be eligible if you:

--Quit a job without good cause;
--Were fired for misconduct;
--Refuse to accept suitable job;
--Are a full-time student;
--Quit because of a labor dispute;
--Are unable to work full-time (except that you are entitled to three weeks per year of being unable to work due to sickness or disability)

For more information on eligibility, contact your local Division of Employment Security (look in the phone book under "Massachusetts, Commonwealth of--Employment Security").

39. How do I apply for unemployment insurance?

Contact your local Division of Employment Security. You will have to bring various forms of proof as to your earnings, reasons for being unemployed, and so on. Once you apply, you must wait a week before you are eligible to receive benefits.

40. What benefits does unemployment insurance provide?

The amount depends on your salary when you worked and how long you worked. In 1978 the highest amount is $122/week plus $6 for each dependent.

41. What are my responsibilities as a recipient of unemployment insurance?

You must report to the Division of Employment Security on certain days each month to get your check, and report on your progress in finding a job, report any earnings, etc.

42. What are my rights to appeal if I get turned down for unemployment insurance?

To appeal, you have 10 days in which to make a written request at your local Employment Security office for a hearing. The deadline may be extended up to 30 days if you can show "good cause" for not making the request within 10 days. You will be notified of the hearing date and time, and you may bring an advocate.

If not satisfied with the outcome of the hearing you may request--within 10 days--an appeal to the Board of Review. The next step up is the court.

You may also try to resolve your complaint by contacting the Division of Employment Security Ombudsman at (617) 727-8660.

H. VETERANS BENEFITS

43. What benefits are veterans entitled to?

If you, or your parent, or spouse is or was a veteran, you may be eligible for benefits such as cash payments, assistance with education costs, medical care, vocational rehabilitation, loans or grants to make specially adapted housing, insurance, emergency grants, and so on. Contact your local Veterans Services office (in every town or city hall) or the main state-run Veterans Services office at 100 Cambridge St., Boston, (617) 727-3578. Or the federally-run Veterans Administration office at the JFK Building, Boston, (617) 227-4600.

If you have a complaint about any decisions made by the Veterans Administration or Veterans Services in your case, ask your local Veterans Services office for information on the hearing procedure.

VII. HOUSING

A. GOVERNMENT-ASSISTED HOUSING

1. What is government-assisted housing?

Government-assisted housing is housing in which the government pays part of the rent either directly or indirectly so that it doesn't cost you as much as a regular landlord-owned apartment. There are certain income requirements you must meet to be eligible.

You can apply for more than one type of government-assisted housing, and in as many neighborhoods as you want. There are no residency requirements, although you may be given preference if you apply in the town where you live. Waiting lists are often as long as several years. Keep checking periodically on your status.

You may get priority (though not necessarily the highest priority) in some kinds of government-assisted housing if (1) you are handicapped, including developmentally disabled; (2) your home has been burned or flooded, or (3) your apartment is unsafe or in bad condition. You will need proof, such as a letter from your doctor, a letter from the fire department, a letter from the building inspector.

The main types of government-assisted housing are:

(1) Public housing developments (formerly called housing projects):

Either for elderly or for families. Handicapped people may live in either type, and do not have to be elderly to live in housing for the elderly. Some of the units must be wheelchair accessible. (See Question 11.)

Contact the public housing authority in the area you want to live in, for applications and eligibility requirements.

(2) Leased housing:

Leased housing means you live in a regular private apartment but the local housing authority pays part of your rent. "Section 8" is one kind of leased housing, and your local housing authority may have others. There may be separate lists for each type of leased housing.

If you meet the income requirements, you will be put on a waiting list for a "certificate". When you get your certificate, you look for an apartment. The housing authority will tell you how big an apartment and how much rent to look for, and the apartment must pass a building inspection. If the landlord agrees to rent to you, you will sign a lease for your share of the rent (up to 25% of your income) and the housing authority will pay the rest.

You can also use a Section 8 certificate for your present apartment.

Contact the housing authority to apply. There may be a long waiting list, so long in fact that applications will only be taken during a few weeks each year. If this is the case, ask when and where the housing authority will advertise that it is accept- applications.

(3) Subsidized Housing

These are apartment buildings where some of the apartments are subsidized (you pay 25% of your income and the government pays the rest). They are not the same as housing projects; rather, they are owned by private organizations or landlords. A building may have a combination of unsubsidized apartments, subsidized apartments for low income tenants, and subsidized apartments for moderate income tenants.

To apply, get lists from the following places, and contact the management of the development you are interested in. Be sure to explain your financial needs as not all the apartments in these buildings are subsidized or subsidized for low income tenants.

Local housing authorities

Mass. Housing Finance Agency
45 School Street
Boston, MA
(617) 723-9770

Area Office
Housing and Urban Development
15 New Chardon Street
Boston, MA 02114
(617) 223-4100

Farmers Home Administration (for rural areas)
Main office: 358 No. Pleasant Street
Amherst, Mass.
(413) 549-2820
Call the county office in the area you want to live in for addresses; offices are in Hadley, Pittsfield, Gardner, Littleton, Raynham, Holden and Bourne.

2. What are my rights in government-assisted housing?

Your rights are different in each type of housing program, depending on the type of government assistance involved. Details of your rights in each program will not be discussed here; however, legal services offices usually deal with large numbers of housing cases and may be good places to contact for more specific information on your particular situation. (See list, Part Three, Section I (D).) Another source of assistance, in areas not served by legal services offices, is:

Mass. Union of Public Housing Tenants
33 Broad Street
Boston, MA 02109
(617) 523-6934

The Mass. Union of Public Housing Tenants has a network of local affiliates and advocates throughout the state, and has been active in getting grievance procedures set up and assisting tenants in using them. It also sells several helpful publications including a how-to book about grievance procedures. For local addresses, contact the main office. Note that this organization works only with people in public housing and leased housing not subsidized housing.

It may be worth your while to seek legal advice in situations such as: if you are held ineligible for government assisted housing because of your income, your handicap, or other reasons; if your rent is raised; if you are discriminated against because of your handicap; if you are evicted or threatened with eviction; if your apartment is unsafe or unsanitary or needs repairs that are not getting done; and so on.

Before seeking legal advice, however, you should speak with the housing authority (if involved), the management, the landlord and so on to see if you can come to an agreement informally.

In some cases, depending on the type of housing program, you have the right to a conference or hearing in some of these situations. Usually there is a deadline (often 30 days) for requesting a conference or hearing. Be sure to keep any

notices you receive from the landlord, copies of any letters or complaints you send, dates of when you made a complaint and what was done about it, and so forth.

An excellent manual on specific laws and regulations for each type of housing program is: Counseling Low and Moderate Income Clients, Mass. Continuing Legal Education-New England Law Institute, Inc., 1387 Main Street, Springfield, MA 01103; pages H-1 to H-407 (may be purchased from MCLE-NELI; also available in law libraries and at the Mental Health Legal Advisors Committee library).

B. TOWARDS INDEPENDENT LIVING

3. I live in an institution and want to move out. What are my rights? How can I find a place to live?

Unless you have been committed to the institution by a court or are on a "conditional voluntary status" (see Section XVI on Rights in Institutions), you have the right to move out any time. Your social worker should be able to help you figure out your options for finding housing. If you have a low income, you might consider government-assisted housing ((A) above). If you are not ready to live by yourself, see Question 4 for types of housing in which you can get supervision or assistance. If you need wheelchair accessible housing, see Questions 10 and 11 below.

4. What is a community residence? a cooperative apartment?

A community residence (or halfway house or group care facility) is a group of people living together, sharing meals, and receiving assistance and supervision from live-in staff. Community residences for adults usually require residents to work or go to educational programs during the day.

In a cooperative apartment you live on your own except that a staff person (who does not live in) visits periodically.

For lists of such places, try:

--The local Department of Mental Health area office (see list, Part Three, Section I (A)), mental health center, or state school;

--Local housing authority;

--Local Associations for Retarded Citizens

--Private organizations for disabled people

There are three private organizations specializing in preparing severely physically handicapped adults for independent living; these groups are usually familiar with housing possibilities available locally for people with physical disabilities. The first two, Boston Center for Independent Living, and Worcester Area Transitional Housing, also maintain their own transitional living facilities.

Boston Center for Independent Living
50 Edgerly Road
Boston, MA 02115
(617) 536-2187

Worcester Area Transitional Housing
507 Main Street
Worcester, MA
(617) 757-9435

Southeastern Mass. Independent Living Program
c/o Mass. Rehabilitation Commission Regional Office
Human Services Center
Lakeville, MA
(617) 947-7646

If you are put on a waiting list for a community residence or cooperative apartment, remind the staff periodically that you are still interested; do not assume that you will automatically be called when an opening occurs.

If you apply to a community residence or cooperative apartment licensed by the Department of Mental Health, and are told you are not eligible due to being from the wrong geographic area, you may object to this decision by writing to the directors of the two DMH area offices involved. If this does not result in a satisfactory solution, you may contact the Regional Services Administrator of the DMH regional office; ultimately you may contact the Commissioner of Mental Health for help in resolving the problem. You should be sure that the residence or apartment is suitable for you and that nothing is available in your own area.

If you need assistance, see the list of legal resources, Part Three, Section I (D).

5. What are my rights in a community residence or cooperative apartment?

Community residences and cooperative apartments licensed or regulated by the Department of Mental Health and serving mentally retarded clients must follow the Department of Mental

Health Regulations, particularly Parts 300-342. You can get a copy for one dollar by requesting the February 9, 1978 issue of the Massachusetts Register from:

Statehouse Bookstore
State House
Boston, MA

These regulations and other DMH regulations are summarized in Section XVI on Rights in Institutions and Community Residences.

Each residence should also have a written statement of residents' rights and a complaint procedure to use if rights are violated. Ask the manager of the residence or apartment. If there is no written statement, find out who funds, approves or licenses the program (Department of Public Welfare, Department of Mental Health, Office for Children; sometimes local private organizations). Contact that organization with your complaint or question. If the response is unsatisfactory, see the list of legal resources, Part Three, Section I (D).

6. What supportive services can help me live independently?

Many supportive services exist; you can apply on your own or ask assistance from:

--A social worker (for example, if you are in a hospital, nursing home, or Department of Mental Health facility)

--Your welfare worker

--Your Mass. Rehabilitation Commission counselor

--A program serving the elderly if you are elderly

--Office for Children if you are under 18 (sometimes under 22)

For addresses, see list, Part Three, Section I (A).

Some of the supportive services available to people living in community residences, cooperative apartments, or their own homes include:

--Personal care attendants for daily tasks like dressing, eating, bathing. Contact Medicaid or Mass. Rehabilitation Commission.

--Home health aides--contact Medicaid.
--Homemaker services--cooking, shopping, cleaning. Contact Medicaid.
--Hot lunches, "meals on wheels"--contact the nearest program for the elderly; sometimes handicapped people who are not elderly may be included.
--Medicaid services in the home such as supervision of medications, physical therapy, etc. See Section V (F) on Medicaid.
--Architectural remodeling for better accessibility--see Question 10 below).
--Telephone adaptations for blind, deaf, and physically handicapped users. Contact the telephone company for details.

The Boston Center for Independent Living, Worcester Area Transitional Housing, and Southeastern Massachusetts Independent Living Program (see addresses in Question 4) offer training to severely physically disabled adults in independent living skills. Each program offers training in slightly different areas, but generally topics might include: procuring, training and managing personal care attendants; health care, emergency medical procedures, self-care and activities of daily living skills, housing, financial management, advocacy, homemaking skills, transportation skills, social skills, and pre-educational or pre-vocational skills.

7. Where can I get financial help to buy a house?

The federal government has several programs to help low or moderate income families to buy homes or condominiums. Contact:

Area Office
U.S. Department of Housing and Urban Development (HUD)
15 New Chardon Street
Boston, MA
(617) 223-4100

Farmers Home Administration (in rural areas) (FmHA)
Main office: 358 No. Pleasant Street
Amherst, MA
(413) 549-2820
County offices in: Hadley, Pittsfield, Gardner, Littleton, Raynham, Holden and Bourne)

If told you are not eligible, you may appeal. Ask HUD or FmHA for assistance.

8. I need housing immediately because I have no place to go and no money. What can I do?

Contact your local welfare office (see phone book under "Massachusettts, Commonwealth of -- Public Welfare"). They should have lists of low cost temporary shelters where you can stay for short periods of time, for example, if you have just been discharged from an institution, or have been evicted. If you are on AFDC or General Relief you may be able to get an emergency grant for a room, or, as a last resort, a hotel. You would not be eligible for emergency grants if you are on SSI; in that case, your best resource may be the Salvation Army or similar organizations that provide free shelter.

If you are in Boston, or can get to Boston, the Homeless Adult Unit of the Department of Public Welfare may be able to help you. You should call ahead to make sure you would be eligible; you must be physically or mentally disabled for at least the next 30 days, and you need a doctor's letter. If eligible, you can get a check for $30 and free Food Stamps. Once you start getting AFDC or General Relief checks, this amount will be deducted from your first check. Contact:

Dept. of Public Welfare
Homeless Adult Unit
37 New Chardon St.
Boston, MA 02114
(617) 227-8320

C. ACCESSIBILITY/DISCRIMINATION

9. How does the law protect me from discrimination on the basis of my handicap?

Local housing authorities are prohibited from discriminating on the basis of blindness or physical handicap. (Mass. General Laws Chapter 121B Section 32(e))

It is illegal to discriminate in renting accommodations on the basis of being a recipient of public assistance or government housing subsidies. (Mass. General Laws Chapter 151B Section 4 (10). To make a complaint, contact:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-3990

If you have a certificate for a Section 8 apartment and believe that discrimination is preventing you from finding a suitable apartment, the public housing authority must help you find a unit. (24 Code of Federal Regulations, Sections 882.103(a), 882.116(r), and 882.204(b)(i)(D))

Under Section 504 of the Rehabilitation Act of 1973, any housing program receiving federal (and probably state) funds is prohibited from discrimination against qualified handicapped persons. The Department of Housing and Urban Development (HUD) is in the process of writing regulations to implement this law, but at the present time these regulations are not completed. However, you may pursue your rights under this law even without the regulations. Contact:

Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
JFK Federal Building
Boston, MA
(617) 223-4317

See Section I (Discrimination) for more information on how your complaint under Section 504 will be handled.

It is illegal to discriminate against the blind or deaf in admission to or treatment in inns, hotels, motels, resorts, and so forth. To make a complaint, contact the police or district court. (Mass. General Laws, Chapter 272, Sections 92, 98A)

It is illegal to discriminate against blind people in renting, leasing or selling real estate. (Mass. General Laws, Chapter 151B, Section 4 (6).) To make a complaint, contact:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-3990

There are no laws at present to prohibit private owners from discriminating against people with handicaps, other than the laws above relating to deafness and blindness. The exception would be those private owners who get federal or state funds. However, it may sometimes be possible to sue private owners who discriminate, for damages for "intentional infliction of emotional distress". This type of lawsuit may be slow, difficult, and--if you lose--expensive. Consult an attorney for advice. See list of legal resources, Part Three, Section I (D).

10. What are my legal rights to housing that is adapted to my handicap?

State and federal laws require some kinds of housing to have adaptations for the handicapped--wheelchair accessibility; safety features like alarm buzzers in kitchens and bathrooms in case of a seizure or accident; bells and lights for elevators to aid the blind and deaf; and other features. The exact requirements vary according to the particular law involved.

--Some units in federal leased housing that was leased after 1977 (Architectural Barriers Act of 1968)

--Some units in federally and state-funded housing developments (Section 504 of the Rehabilitation Act of 1973; Mass. General Laws Chapter 121B)

--Five percent of the units in hotels, motels, apartment houses and boarding houses, having 20 or more units and built or substantially altered after June 10, 1975 (Mass. General Laws Chapter 22 Section 13A)

--Public areas of apartment buildings and condominiums with 12 or more units, rest homes, nursing homes, hospitals, hotels and motels--if built or substantially altered after June 10, 1975 (Mass. General Laws, Chapter 22, Section 13A)

--Residential homes licensed by Department of Mental Health (Section 504 of the Rehabilitation Act of 1973, regulations of Dept. of Health, Education and Welfare;

--Some units in dormitories in federally-aided schools and colleges; handicapped students must be given the same range of housing options as non-handicapped students (Section 504 of the Rehabilitation Act of 1973, Regulations issued by Department of Health, Education and Welfare)

The exact accessibility requirements for housing programs funded by the Department of Housing and Urban Development have not been finalized, as HUD has not yet issued final regulations implementing Section 504 of the Rehabilitation Act. However, you may still file a complaint with the Department of Housing and Urban Development for non-accessibility. See Sections I and IV for more information on accessibility requirements and how to file complaints under the various laws.

For assistance in finding out whether a certain type of housing should be accessible, see the list of legal resources, Part Three, Section I (D).

11. Where can I get financial help to adapt my home to my handicap?

(1) Mass. Rehabilitation Commission sometimes pays for ramps and other adaptations if you would be better able to get to work or live independently.

(2) Your local city hall, community development department, or city planning department may have special funds, for example, a Community Development Block Grant from the US Department of Housing and Urban Development.

(3) Some organizations for the elderly like Home Care Corporations can make small loans.

(4) Handicapped homeowners in rural areas may apply for loans or grants from Farmers Home Administration.

(5) If you find a Section 8 apartment, your landlord may be allowed a higher maximum rent level if he/she adapts your apartment.

(6) Homeowners may get a tax deduction for making "capital improvements" including barrier removal. Check with the Internal Revenue Service.

(7) Homeowners may get loans under HUD's "Home Improvement" program. Contact the Dept. of Housing and Urban Development at 15 New Chardon Street, Boston, (617) 223-4100.

(8) Businesses may also get tax deductions for removing architectural barriers from work places.

VIII. TRANSPORTATION

A. DRIVER'S LICENSES

1. May people with physical or mental disabilities get driver's licenses?

People with physical or mental disabilities who are capable of driving safely may get licenses. If necessary, their licenses may be restricted in various ways for safety reasons.

2. Who decides if I am capable of driving safely?

When you apply for a driver's license, you must answer whether you have any physical disability, or have been treated for any mental disorder, heart disorder, epilepsy, or fainting spells. Your application will not be processed if you refuse to answer.

If you answer "yes", the Medical Affairs Branch of the Registry of Motor Vehicles will ask for a physician's statement on your disability and whether you can drive safely and whether you need any special equipment or restrictions. The Medical Affairs Branch (100 Nashua Street, Boston) then decides whether to give you a license.

3. Do I have any rights if I get turned down for medical reasons?

Yes, you have a right to a hearing. You must ask for it within 10 days. Contact:

Your local Registry of Motor Vehicles

or

Suspensions and Revocations Section
Mass. Registry of Motor Vehicles
100 Nashua St.
Boston, MA
(617) 727-3850

You may also reapply if your medical situation improves.

4. What are my rights if I already have a license and it is taken away for medical reasons?

Your license may be suspended or revoked if the Registry believes you can't drive safely. You must be notified 14 days in advance as to the reasons and your right to a hearing.

To get a hearing, you must request it in writing within 14 days to your local Registry of Motor Vehicles or the Suspensions and Revocations Section of the Registry (see Question 3).

If your license does get suspended or revoked, you have the right to an appeal. You must make your request for an appeal in writing within 10 days to:

Board of Appeal on Motor Vehicle Liability Policies and Bonds
100 Cambridge Street
Boston, MA
(617) 727-3380

The Board is a separate organization outside the Registry which handles appeals. You should call first for specific instructions on how to make your request. In the meantime, your license remains suspended or revoked. If you are dissatisfied with the outcome of the appeal, you may go to court.

5. May a mentally retarded person get a license?

It depends on the degree of retardation and your ability to drive safely. If you cannot read, you can ask for an oral examination.

6. How may a person with epilepsy get a license?

You must usually be seizure-free for 18 months before applying. However, exceptions may be made if your neurologist thinks you're unlikely to have seizures again and if the cause of your last seizures is unlikely to occur again.

When you get your first license, you have to give the Registry a letter from your neurologist every three months. After awhile, you may ask for a longer time between letters--six to nine months, then up to one or two years.

If you have a seizure while you have a license, you are responsible for turning in your license for six months, then getting another letter from your neurologist. Sometimes the waiting period can be shortened.

7. I was in a mental institution. May I get a license?

Being in a mental institution, either now or in the past, does not by itself mean you can't get or keep a license. To get a license, you will have to have a letter from a psychiatrist saying what medications you are on (if any) and whether you can drive safely. If you already have a license and are admitted to a mental institution, your license does not automatically get taken away; the Registry has to have evidence that you are also incapable of driving safely.

8. I have some physical disabilities. How do I go about getting to drive?

Mass. Rehabilitation Commission may be able to help adapt a car to your disabilities so you can drive it. See Section III (A) on Mass. Rehabilitation Commission.

9. May I take a verbal test instead of a written test for a license if I have a lot of difficulty reading?

You should be allowed to do this, either for a license or a learner's permit. Call ahead to make arrangements with your local Registry. If you have trouble getting to do this, call for assistance from the Medical Affairs Branch of the Registry (727-3865).

B. LICENSE PLATES FOR THE HANDICAPPED

10. Who is eligible for special handicapped license plates?

You must: (1) be blind or have permanently lost the use of a hand or foot; AND (2) be the registered owner of the car (or, after January 1, 1979, the person to whom the vehicle is leased).

11. What are the benefits of having these special plates?

The plates, which say "HP", allow you to (1) park in parking spaces for the handicapped; (2) park without having to pay parking meter fees; and (3) park longer than normally allowed without penalty (but only in legal spots).

You get these benefits only when you (the handicapped person) are actually using the car.

To apply, contact your local Registry of Motor Vehicles or the Veterans/Handicapped Division of the Registry at 100 Nashua Street, Boston, (617) 727-3865. You will have to give medical proof of your handicap.

C. DISCRIMINATION/ACCESSIBILITY

13. How am I protected from discrimination in transportation?

Under Section 504 of the Rehabilitation Act of 1973, a federal law, programs which receive federal funds may not discriminate against you simply because of your handicap. As soon as regulations for Section 504 are finalized, there will be more specific ways in which you are protected.

To make a complaint about discrimination in federally funded programs, see Question 16.

A state law says that you may not be discriminated against on account of blindness or deafness by transportation companies on land or water or in the air, or by stations and terminals or gas stations. To make a complaint, contact your local police station or local district court. The law is called "Mass. General Laws Chapter 272 Section 92A".

14. Under federal laws, what kinds of transportation must be accessible?

Federal laws such as Section 504 require federally-funded transportation programs to become accessible, but because of the costs, the deadlines are several years from now. In the meantime you may be able to find accessible transportation through programs designed especially for handicapped people (see Questions 17 and 18). The federal laws cover the following:

(1) Urban mass transit (if federally-aided):

--May not discriminate solely on basis of handicap.

--Stations and terminals constructed or altered after May 31, 1976 must be accessible (entrances, elevators, toilets, boarding areas, fare transaction areas, phones, etc.); travel distance for wheelchairs must be as short

as possible (Urban Mass Transportation Administration regulations)

--Federal legislation on accessibility of buses is in the process of changing. Though a deadline has not been set, nor have details been finalized, at some point buses will have to have either ramps or lifts, and must "kneel" to within 18" of the ground. (UMTA regulations)

--Half fare must be given to handicapped riders in off-peak hours (UMTA regulations)

--If ordered after May 31, 1976, must have signs saying elderly and handicapped get priority for front seats

--As soon as Section 504 regulations from the Department of Transportation are finalized, requirements for accessibility will be stricter and more specific.

(2) Intercity buses (Greyhound, Trailways, etc.)

--May not deny transportation on basis of handicap, physical disability or blindness or inability to board without assistance (Interstate Commerce Commission regulations)

--Bus company must help with boarding, terminal accommodation and baggage, if you desire (ICC regulations).

--Terminals must have sign saying where to get assistance (ICC regulations)

--Terminals built or renovated after January 1, 1978 must be accessible (ICC regulations)

(3) Intercity trains (Amtrak, Conrail, etc.)

--Amtrak must make sure no handicapped person is denied transportation on its trains (Amtrak Improvement Act)

--Railroad companies must help handicapped people travel by getting special facilities and equipment and eliminating architectural barriers, and by helping with boarding, baggage and so on (ICC regulations)

--As soon as Section 504 regulations are finalized:

  --Terminals and stations will have to be made accessible;
  --Every train will have to have at least one accessible food service car, coach car, and sleeping car;
  --All new railroad cars will have to be accessible;
  --Companies will have to help with using on-train facilities

(4) Airlines

--If you will need help getting out of a plane in an emergency, you must give advance notice before you use that airline (Federal Aviation Administration regulations)

--Airlines must have procedures for helping you out safely in emergencies (FAA regulations)

--You may not be denied transportation on the basis of being unsafe for flying unless (1) you did not give advance notice, or (2) you cannot be carried in accordance with the airline's safety procedures (FAA regulations)

--As soon as Section 504 regulations are finalized, airline terminals will have to become accessible.

To make complaints under these laws, see Question 16.

15. Under state laws, what kind of transportation facilities must be accessible?

--If built or altered (1) after June 10, 1975 with private funds, or (2) after 1968 with public funds, public parking lots for 25 or more cars must have some accessible spaces (Mass. General Laws Chapter 22, Section 13A; Architectural Barriers Board regulations)

--Buildings constructed or altered after 1968 by the Mass. Turnpike Authority, Mass. Bay Transportation Authority, Mass. Port Authority, and Mass. Parking Authority must be accessible (Mass. General Laws, Chapter 22, Section 13A; Architectural Barriers Board regulations)

--Airports, bus and train stations built or altered (1) after June 10, 1975 with private funds, or (2) after 1968 with public funds, must have overhead protection and/or snow-melting provisions around entrances; must have accessible exits, phone, toilet, fare transaction areas, entry gates (Mass. General Laws, Chapter 22, Section 13A; Architectural Barriers Board regulations)

--Public sidewalks built or altered since 1968 must have curb cuts (Mass. General Laws, Chapter 83, Section 25)

16. Where can I go to make a complaint about discrimination or lack of accessibility?

--For complaints about inaccessibility under state laws, call or write:

Architectural Barriers Board
One Ashburton Place
Boston, MA
(617) 727-6257

Give a description of the accessibility problem, its location, the name and phone number of the person responsible for the building, your suggestions for solving the problem, and your name, address and phone number. You do not need a lawyer to make a complaint to the Board.

--For complaints about discrimination or lack of accessibility under Section 504 of the Rehabilitation Act of 1973, contact:

Office of the Secretary
Office of Environment and Safety
Department of Transportation
400 Seventh St. S.W.
Washington, D.C. 20590
(202) 426-4357

Since the Department of Transportation has not issued final regulations yet to implement Section 504, the enforcement and complaint procedures are not definite. The Office of Environment and Safety in the Department of Transportation will, however, take your complaint and process it or refer it if necessary to other offices within the Department, such as the Federal Aviation Agency, the Federal Highway Administration, the Urban Mass Transportation Administration, or the Federal Railroad Administration.

--For complaints about discrimination or lack of accessibility in federally leased or owned transportation facilities under Section 502 of the Rehabilitation Act of 1973) contact:

Architectural and Transportation Barriers Compliance Board
Washington, D.C. 20201
(202) 245-1591

For information on how to make a complaint and how it will be handled, see Sections I and IV of this Handbook.

17. Where can I find out about accessible transportation in my area?

--In Metropolitan Boston:
The Mass. Bay Trasportation Authority
Office for Special Needs
45 High Street
Boston, MA 02110
(617) 722-5123

The MBTA offers a specialized, door to door transportation service to eligible handicapped individuals. If you have a disability which prevents you from using public transit, you should call the above number for information. Advance registration for The Ride is necessary. You may be eligible if you live in certain parts of Boston or in Cambridge or Brookline. More cities and towns may be covered in the future.

The MBTA also offers a charter type service for handicap organizations. This is a lift-equipped bus that can accommodate up to seven wheelchairs and up to 22 ambulatory persons. For current rates, contact the Office for Special Needs.

--In other parts of Massachusetts: the state is divided into 13 Regions for Regional Transit Authorities, each of which should know about the transportation resources in your area. Most regions operate a special system for handicapped riders. (See list, Part Three, Section I (A) .)

--The Executive Office of Transportation and Construction in Massachusetts is a state-wide agency which may be able to give you information on transportation for elderly and handicapped people. Address: One Ashburton Place, Boston, MA, (617) 727-7680.

--Call your city hall or school department.

--Contact the nearest home care corporation for the elderly (See list, Part Three, Section I (A).)

--Greyhound Lines allows a handicapped person and his/her attendant to travel for the price of a single ticket. By calling a half hour ahead to the terminal, you may get assistance with seating and baggage.

--Call one of the organizations for disabled people listed in Part Three, Section I (B).

--The Urban Mass Transportation Administration provides funding for specialized vehicles for non-profit organizations serving handicapped people (called the "16(b)(2)" program). UMTA provides 80% of the cost of the vehicle. For information contact the Executive Office of Transportation and Construction (One Ashburton Place, Boston, (617) 727-7680).

D. FREE AND LOW COST TRANSPORTATION

18. Are there any sources of free or low cost transportation for disabled people?

Under certain laws you have a right to free transportation.

--Under Chapter 766 (special education law), the school district may be required to pay for transportation of a school age child with special needs to a 766-approved school. (See Section IX on Education.)

--Mass. Rehabilitation Commission will sometimes help pay for transportation to a vocational training or sheltered workshop program (see Section III (A) on Mass. Rehab.

--If you are on Medicaid and cannot use or pay for regular transportation, you may be eligible for free transportation to and from medical care. Ask your social worker.

--The local school department is required to pay for transportation of mentally retarded persons to educational, habilitational or day care programs or facilities of the Department of Mental Health. This is for adults as well as children. (Mass. General Laws Chapter 19 Section 28)

--The above programs supply wheelchair accessible transportation if needed.

--Handicapped individuals can get half-fare on urban mass transit during off-hours. Elderly people (over 65) may get half-fare at all hours. Call the MBTA or your local mass transit office. In most cases you will need a special identification card.

--Blind persons may travel free at all times. Contact Mass. Commission for the Blind (110 Tremont St., Boston , 727-5550; 1-800-392-6450).

IX. SPECIAL EDUCATION

By law in Massachusetts and everywhere in the nation now, all students age 3 through 21 with special needs have the right to a free, appropriate publicly supported education. This includes all developmentally disabled students no matter what type or degree of handicap they may have. The Massachusetts special education law, Chapter 766, has been in force since 1974, and is strengthened by two recent federal laws. Public Law 94-142 requires that all handicapped children in the nation be receiving a free appropriate public education by September of 1978; and Section 504 of the Rehabilitation Act of 1973 mandates equal rights for the handicapped, including equal educational opportunity for all handicapped students at any educational agency receiving federal funds.

These federal and state laws impose a clear obligation on the public schools to educate all children regardless of their individual differences.

The process for getting special education can seem somewhat complex. It is very important that parents and advocates take an active role in obtaining appropriate high quality services for special needs students, and the law has incorporated many provisions encouraging and even requiring active participation by parents at important decision points. Many advocacy organizations exist statewide which can help parents and advocates get through the process successfully. Carefully reading some of the manuals listed at the end of this Handbook (Part Three, Section II) will also help minimize the complexity of obtaining services.

For people under 22 with special needs, Chapter 766 is a most important source of services and treatment, and it works best when there is active involvement by parents or student.

1. What agency in Massachusetts is specifically responsible for seeing that every student receives appropriate educational services?

The student's local public school district is responsible for finding, evaluating and serving all special needs students in the district, including students from the district who may be living in institutions or in private schools in another locale.

2. Who is eligible for special education services in Massachusetts?

The first criterion is whether the student has a disability. If a child is of school age (three through 21) and is mentally retarded, speech impaired, visually handicapped, hard of hearing or deaf, seriously emotionally disturbed, crthopedically impaired (which includes the whole range of physical disabilities), has any other major health impairment, or learning disability, he/she is potentially eligible for special education services in Massachusetts. Children who have not yet been identified as having one of these conditions may also be eligible.

The second requirement is whether the student requires special education and related services because of his/her disability.

3. What is special education?

Special education is instruction individually designed to help the students whose special needs do not allow them to profit from standard classroom instruction.

Special education can occur in many different settings and address many areas of need. To the maximum extent appropriate, handicapped students must be educated with those who are not handicapped. Separate schools, special classes or any plan which removes the student from the ordinary educational setting should only occur when the nature or severity of the handicap prevents the student from benefitting from the regular program with supplementary services.

Procedures have been set up to identify special needs students, evaluate them, draw up individual education plans, implement the plans, monitor progress, and provide for resolution of disagreements and enforcement of rights.

4. What is the first step in getting special education services?

The first step is to refer the student to the school district for an evaluation. Persons who may request that a student be evaluated are: (1) parents, (2) persons having custody of the child, (3) a school official, (4) the child's teacher, (5) judicial officer, (6) social worker, (7) family physician, or (8) the sutdent, if 18 or older. Forms for referral can be obtained from the school principal or Special Education Administrator in the student's home town, and should be returned to either of those two offices. Referral may also be made by phone or letter. In 5 days parents must receive a notice stating that their child has been referred, and outlining the parents' rights during the evaluation and placement process.

For students in institutions, parents should request an evaluation from the Bureau of Institutional Schools representative at the institution.

5. How are the student's needs evaluated?

A student has the right to be fully evaluated by a team of specialists in the school system at the request or referral of parents or others. The TEAM must determine the student's abilities and problems and how best he/she can be served by the school system. Parents should be an active part of this evaluation process, as they can be an invaluable source of information about the student. The evaluation should be a well-rounded investigation of the student's needs and progress in all areas of intellectual, physical, and emotional development.

In a pre-evaluation conference, which occurs only at the parent's request, parents and the TEAM together decide whether the student needs a full evaluation or a shorter, simpler intermediate evaluation. The full evaluation consists of educational history, psychological assessment, classroom evaluation, medical examination, and family history. Parents have the right to insist on a full evaluation if they feel it necessary.

After the evaluation, there is a TEAM conference in which parents and/or the student (if over 14 and interested in attending) help to decide on the program. If parents feel that the evaluation is incomplete, inaccurate, out-of-date or otherwise unsatisfactory, they have the right to request an independent evaluation, but not until the evaluations and educational plan have been completed and the parents have rejected the plan. If the school agrees, however, an independent evaluation can be done sooner.

6. How is the educational plan decided upon?

After the TEAM conference, the TEAM will write up a plan detailing how the school district will meet the student's individual educational needs. The student's parents must receive the educational plan within ten days after the conference. Briefly, the plan must include a clear, understandable description of what the student can do now, how he/she learns most easily, a description of any physical problems, a statement of specific short and long-term educational goals for the student and how progress toward them will be monitored, a timetable and names of staff responsible for each part of the program. It must also contain descriptions of the specific programs and services necessary to reach those goals, including transportation, supplementary therapies and counselling services needed.

Parents, or students if 18 or older and competent, have the right to reject the educational plan and thereby initiate mediation and hearing procedures. (See Question 12)

It is extremely important that any service or goal which the parents or student want implemented be listed on this plan, since otherwise it may be hard to enforce its implementation. The plan should be studied with care, taking time to clarify any vague or confusing statements with the TEAM. Goals should be worded very specifically.

Parents must be given a copy of the plan and must be allowed to see any evaluations.

7. What services may the Individualized Educational Plan prescribe?

i) Education Services

All of the services detailed in the educational plan must be provided and paid for through the public schools.

The state special education regulations set out nine general prototypes for special education programs, within which many possible types of educational experience may fall. The prototypes are:

1) Regular education program with modifications: This program is provided by the regular classroom teacher who may be assisted by specially trained aides.

2) Regular education program, no more than 25% time out: no more than a quarter of the child's classroom day will be spent receiving special services outside the class. There are specific limits on the number of pupils who can be in a special class at one time.

3) Regular education program, no more than 60% time out: Basically the same as the above, but with a greater amount of time outside of the regular class.

4) Substantially separate program: This is recommended when a student must be in a special class composed entirely of special needs students. Again, restrictions are placed on the number of students and the age ranges allowed within a single class. Classes should group children with similar educational needs, not just similar diagnostic labels.

5) Day school program: The student is placed in a program outside the public shcool. The program must be approved by the Department of Education as a special education resource.

6) Residential school program: Placement in a 24-hour residential program that can provide the required educational services. These programs, either private or public, must be approved by the Department of Education.

7) Home, hospital regional adolescent program: If a child must be at home or in a hospital for an extended period of time these programs provide educational services specified by the student's physician rather than the CET. In a Type A program (for periods of 14 to 60 days) the child receives tutoring in his/her normal curriculum. A Type B program, in which the child receives instruction according to an Individualized Educational Plan, is for

children who will be at home or in the hospital more than 60 days, or in a pediatric nursing home, or in a Regional Adolescent Program under the Departments of Education and Mental Health.

8) Program for three- and four-year-olds: may be home-based, with instruction to parents or family day-care staff to enable them to work with the child at home; integrated center-based, where up to half the children have disabilities; and separate center-based, where more than half the children have disabilities.

9) Diagnostic program: This alternative is chosen by the TEAM when they cannot set educational objectives from their evaluation of the student. The student is placed in a program with a list of diagnostic questions prepared by the TEAM for the program staff to answer. A student may not remain in a diagnostic program for more than eight weeks.

If the TEAM recommends a private school placement, the school district must pay for tuition, room and board, and for all 766-mandated supplementary services that are prescribed in the plan. If parents wish a private school placement and the TEAM will not recommend it, parents may reject the educational plan and initiate appeal proceedings in an effort to have the school district take on the cost. Alternatively, parents may choose to pay the tuition on their own. In this case, the student receives no services from the public school unless the parents choose to re-enroll him/her at a later date.

ii) Supplementary Services

In addition to the types of education programs discussed above, the school district must offer supplementary services to any special needs student for whom they are prescribed. No services shall be provided without the parent's consent. The following types of services must be available:

1) Vocational education programs, including pre-vocational and a full range of vocational courses and career counselling.

2) Special education personnel of all categories.

3) Nursing services, of the extent that regular school nurses provide.

4) Peripatology (services to train the blind and visually impaired).

5) Occupational therapy.

6) Physical therapy.

7) Speech and language therapy.

8) Limited social and psychological services, including group and individual counseling, crisis intervention, and consultation with counselor, psychologist, social worker or psychiatrist for child and/or parents.

9) Physician's services to prescribe or refer to physical and occupational therapy.

10) Parent-child instruction to enable parents to help educate their child.

A more detailed description of the scope of additional services offered may be obtained from the local special education administrator.

iii) Three, Four and Five-Year-Olds

Under Chapter 766, the local school district must provide services for children in kindergarten and for children three and four years old who have substantial disabilities. Screening programs must be given for all children of kindergarten age and for three- and four-year-olds whose parents choose to have them particiapte. Screening is a brief series of observations and tests to determine which children need further evaluation for possible special services. School districts are required to advertise screening programs, but if parents want information about them, they should contact the local Superintendent's office. If parents suspect that their child has a substantial disability they or their doctor may immediately refer the child for an evaluation without prior screening. The process for referral and evaluation is the same as detailed in Questions 4, 5 and 6, above.

The screening and evaluation are performed by a TEAM trained to assess young children. The elements of the evaluation are basically the same as for school-age children (see Question 5). If an evaluation finds that a child needs special services an educational plan is prepared, and with parental consent the child is placed in one of the program types listed in (i) above.

iv) Students Out of School

Chapter 766 requires that special needs students be offered services until their twenty-second birthday or their graduation from high school, whichever comes first. Students who are not in public school, for whatever reason, have the same right to all the above services as do those who are in school. Private school students, those excluded from school due to disability or behavior problems, and students in institutions are equally eligible for services.

v) Students in Institutions

Students residing in state operated institutions such as state schools for the retarded, psychiatric hospitals, Public Health hospitals and Youth Services facilities are also entitled to an appropriate education.

Educational services for students at these institutions are provided within three educational prototypes:

Day Programs

There are two kinds of day programs involving institutionalized students: programs at the institution which are attended by students who live at home, and programs in the community which are attended by students who live at the institution. In these programs, the student's residence determines educational responsibility: for the former, the student's local school district is responsible; for the latter, the Bureau of Insitutional Schools in the Department of Education is responsible.

Residential School Programs

These programs serve those students who require a 24 hour structured and protective setting. For students admitted to the institution before 9/1/74, the Department of Education is responsible for the educational services and the Department of Mental Health is responsible for medical and residential services. For students admitted after 9/1/74 the local school district shares in the cost.

Hospital Programs

There are two types of Hospital Programs. Type A refers to short term (14 to 60 days) programs where the student receives tutoring in the regular school curriculum. Type B typically refers to a longer stay (over 60 days) and to programs that are provided under an educational plan. In either type program, the local school district is responsible for providing the necessary services.

Selection of the appropriate program is guided by the principle of seeking the least restrictive alternative.

The Bureau of Institutional Schools within the Department of Education has responsibility for educational programs in state operated facilities. Fiscal responsibility for the student's program is generally determined by the date of admission to the facility. The Bureau of Institutional Schools funds programs for students admitted to the institutions prior to 9/1/74 (the effective date of Chapter 766); the home school district is responsible for all students with special needs identified after that date.

8. What happens after the plan has been completed and accepted?

The plan should be implemented promptly and fully. If it is not, see Question 13 for possible routes of action.

The student's progress should be continually monitored, with reports sent each quarter to the parents. The program must be reviewed within 10 months, and annually thereafter, with re-evaluation to the extent necessary. A full evaluation must be held at least every three years (unless the parents refuse). A new educational plan must be written as well, recommending that either (1) the program continue as is, (2) the program continue with substantial changes, or (3) the program be terminated and the child be placed in a new program.

A TEAM "liaison person" must be selected to monitor each student's progress, write the quarterly reports, and recommend any modifications needed in the program from time to time. The parents (or student if 18) must consent to any modifications.

If the parents (or student if 18) feel the plan is outdated or needs changing, they should contact the TEAM liaison person.

9. What is the role of students age eighteen through twenty-one in the 766 process?

If the student is legally competent then he/she can speak for him/herself and sign or reject the educational plan, request hearings and evaluations and make all other decisions about his or her education.

If the student is not competent or is unwilling to participate, the law allows parents to act for the student in educational matters without having to obtain legal guardianship, but students of any age should be consulted about educational alternatives if there is any possibility that they can understand and indicate a preference.

10. What are the major rights of parents or adult students throughout the 766 process?

a) They must receive notification in writing before the school recommends or takes any action that may change the student's program, for example, referral for evaluation, change of class placement, appeal hearing decision.

b) They may give or withhold permission for the student to be (1) screened to see whether special education is needed; (2) evaluated to determine specific educational needs; or (3) placed in a specific program.

c) They have the right to examine all school records related to the student's screening evaluation and placement. They may request that records be removed from the file if misleading or inaccurate, and such records may not be used in planning the student's education thereafter.

d) They have the right to request an impartial hearing at any time if they disagree wtih the school's course of action (either proposed or actual) with regard to the student's education. (See Question 12).

e) They have the right to appeal unfavorable results of that hearing to the State Advisory Commission and ultimately to the courts. (See Question 12).

11. What are the rights of parents and students in the evaluation process?

a) Students over age 14 have the right to attend any meetings concerning their evaluation.

b) Parents must be a part of the TEAM. Students if 18 or older may be a part of the TEAM if they wish to be.

c) Parents have the right to request meetings and to attend meetings about the educational plan and may be accompanied by someone to any meetings with school representatives.

c) For programs with no more than 25% time out, parents (or students if 18 or over) have the right to determine whether a student receives a full evaluation consisting of educational history, psychological assessment, classroom evaluation, medical examination, and family history; or a shorter intermediate evaluation consisting of a few of the above elements. A full evaluation is required for programs with more than 25% time out.

e) Parents (or students if 18 or over) have the right to reject the results of the evaluation. (See Question 12).

f) Parents (or students if 18 or over) have the right to have an independent evaluation done privately at their own expense or by a 766-approved facility with the knowledge of the school system at the expense of the school.

12. What can be done if a parent (or student if 18 or older) disagrees with the educational plan?

Parents and/or the adult student have thirty days after receiving the educational plan to accept it, reject it (in writing to the TEAM), or request a second evaluation, hence postponing a decision until further testing is completed.

If the plan is accepted it must be implemented as scheduled by the school. School district financial problems, limited student placement spaces or other problems should not interfere with the process. If the accepted plan is not being carried out promptly, see Question 13 for possible routes of action.

If parents have immediate questions or minor concerns with the plan, then before accepting or rejecting it they should discuss these matters with the TEAM liaison person and/or the Administrator of Special Education. The TEAM liaison person is a member selected from the TEAM to monitor the student's progress, submit progress reports, and recommend any necessary changes. A sincere effort should be made to settle differences through these channels before rejecting the plan outright. Meeting with teachers, the principal, and special education administrator can often solve problems without having to resort to formal proceedings.

Parents may reject the whole plan or portions such as the type of educational program prescribed, the long or short-term educational goals, any or all of the evaluation results.

Rejecting all or portions of the educational plan sets into motion a series of mediation and formal appeals proceedings designed to result in a final plan. The first step is voluntary, non-binding mediation with the Department of Education mediator, the school and the parents. It is a good idea to be represented by a lawyer or advocate at the mediation stage to avoid having to go through the hearing process.

If the dispute is not resolved by mediation, then a formal appeal hearing may be held. At the appeal hearing, a hearing officer from the Bureau of Special Education Appeals (generally a lawyer) will hear both sides of the issue and determine an educational plan. The plan must be "adequate and appropriate," not necessarily "the best" possible. Parents and/or the student may be represented at the hearing by an attorney, an advocate or both. A lawyer's assistance can be very valuable in proving the inadequacy of the rejected plan and presenting a more appropriate alternative. In the hearing, parents should cover these points: when the student's problems were first noticed; What the problems are; What the school has done; How successful the school's efforts have been; Why the hearing is needed; and on what medical or educational basis the educational plan is unacceptable. Parents (or students if 18) or those representing them at a hearing may call and cross-examine witnesses, submit evidence for the record and obtain a record of the hearing and its findings.

Parents can choose not to have a hearing. In this case they give all the information they have to the hearing officer, who reviews it and comes to a decision.

Hearing officers may decide in favor of the parents or in favor of the school, or may draft a new plan based on the evidence presented.

If parents are dissatisfied with the appeal decision, they may reject it and choose a regular educational program or receive a hearing before the State Advisory Commission by rejecting outright (in writing) the hearing officer's decision. The State Advisory Commission is a group of citizens involved with special education who are chosen to monitor special education services throughout the state. They retain a lawyer to review cases and decide on the basis of existing evidence whether the hearing officer's decision was appropriate. If parents wish to appeal the SAC's decision, they may go before the state Superior Court.

The entire appeals process can take from a few months to more than a year. It may be time consuming and costly if pursued to the highest levels, but if problems are clearly set out by both parties at the outset, solutions should be possible without great hardship.

13. What can be done about problems with special education other than inadequate assessments or educational plans?

Typical problems might be delays in actually providing the special education services; inadequacy of services provided; payment problems for evaluation, transportation, or other services; non-compliance with the required timelines for the evaluation, or initiation of services; or failure to comply with the plan.

If these or any other difficulties occur, the first thing to do is to work actively with the people directly involved in the problem--teachers, administrators, other services providers or the student, as appropriate.

Each student, including students in institutions, has been assigned a TEAM liaison person to monitor the educational program, submit reports on the student's progress, and recommend any necessary changes in the program. This person should be asked to investigate the problem. He/she may request a change in the program or recommend a review of the plan.

The next step is to contact the local school committee, or in the case of students admitted to institutions before 9/1/74, the representative of the Bureau of Institutional Schools. In the 5 state schools, Hogan Regional Center, and the Massachusetts Hospital School, this would be the Assistant Superintendent of Children's Services. In other institutions it would be the Department of Education liaison person.

If the problem seems to lie with the school system, the next step is to contact the Regional Office of the Department of Education, Bureau of Program Audit and Assistance, which investigates complaints about Chapter 766 implementation. (See list, Part Three, Section I(A)).

If the student is in a Department of Mental Health institution, and the institution appears to be the obstacle to services, contact the Regional Office of the DMH (see list, in Part Three, Section I(A)). The Regional offices are responsible for services provided by programs in that region. Each office also has a Program Manager assigned from the Department of Education to coordinate joint Department of Education and Department of Mental Health efforts.

As a last resort, the student's educational plan can be rejected at <u>any</u> time in the delivery of services, even if it has been previously accepted. Simply submit a written notice of rejection to the school principal or the special education administrator in the local school district. This action will set into motion the adversary hearing procedures detailed in Question 8.

A hearing for non-compliance with the educational plan may also be requested at anytime.

14. What happens with a student's education during the time that a special education evaluation or appeal is being carried out?

A student will stay in his or her originally assigned classroom during the evaluation or appeal process unless remaining there constitutes a physical danger to the student or to others in the class. In such a situation the student can be moved to another setting with parental consent and approval of the Regional Sepcial Education Office.

15. Do special education services cost the parents extra money?

All 766 services detailed in the regulations must be provided and paid for by the local school district. Under no circumstances are parents required to pay for any 766 program, evaluation or supplementary services. However, with parents' consent, school systems may take advantage of benefits such as SSI, Medicaid or private insurance. However, if parents do not consent to use of such benefits or insurance, the school must still provide all required 766 services at no cost to parents. For further information on obtaining Medicaid or SSI, see Section V(F) on Medicaid and Section VI(A) on SSI.

16. Where can parents or students get help with the 766 process?

Two organizations actively involved in 766 advocacy are:

Federation For Children With Special Needs
120 Boylston Street
Boston, MA 02116
482-2915

Massachusetts Advocacy Center
2 Park Square
Boston, MA 02116
357-8431

X. RECREATION

A. DISCRIMINATION/ACCESSIBILITY

1. How does federal law protect me from discrimination in recreation programs?

Under federal law, Section 504 of the Rehabilitation Act of 1973, recreation programs receiving federal financial assistance may not discriminate against you solely on the basis of your handicap. You do, however, have to be qualified for the program. Recreation programs that might receive federal funding include:

City recreation programs
School and college physical education, athletics, and extra-curricular activities
National parks and forests
Museums and art galleries
Concert and theater programs
Libraries
Drop-in centers or neighborhood centers
Stadiums
Camps
And many others

Programs should offer the same range of activity options to qualified handicapped persons as to non-handicapped participants. Admission requirements and administrative rules should allow handicapped people to be treated as individuals rather than as a class; for example, a camp should not automatically exclude everyone with epilepsy without finding out whether the seizures are well-controlled or could easily be handled in the camp environment. A program may screen out unqualified handicapped persons--for example, people with severe speech problems could be excluded from theater parts.

Federally funded programs may not assist organizations that discriminate against the handicapped.

You may not be excluded from a federally-funded program simply because it is inaccessible (see Question 3).

Federally funded schools (preschool through [illegible] not discriminate against qualified handi[illegible] extra-curricular activities, clubs, [illegible] physical educaton, athletics, [illegible] the most integrated [illegible]

If you [illegible]

in a recreation program: first try persuasion and education. Give the staff more information about your needs and how to accommodate you and what the law says.

If this fails, find out if the program receives federal funds by asking the director, checking annual reports, publicity releases, etc. If the program gets federal funding, send a written complaint to the federal agency providing the funds. See Section I on Discrimination for details and addresses of federal agencies. Many recreation programs are funded by the Department of Interior (Bureau of Outdoor Recreation or National Park Service) and the National Endowment for the Arts.

2. How does state law protect me from discrimination in recreation programs?

A state law (Mass. General Laws, Chapter 272, Section 92A and 98) makes it a crime to discriminate because of blindness or deafness in admission or treatment in public places, including:

Inns, taverns, hotels, shelters, motels, trailer parks, resorts, etc. for people seeking housing, lodging, food, drink, entertainment, health, recreation or rest;
Public transportationon land, water or air; stations and terminals;
Gas stations, garages, retail stores (including personal services like beauty shops);
Restaurants, bars, eating places;
Rest rooms, barber shops, bathhouses, seashore facilities, swimming pools;
Boardwalks, public highways;
Auditoriums, theaters, music halls, meeting places;
Places of public amusement, recreation, sport, exercise, or entertainment;
Public libraries, museums or planetariums.

Unfortunately, this law does not protect you from discrimination on the basis of any other disabilities. To make a complaint, go to the nearest police station or district court and fill out papers for a criminal complaint.

There are no laws directly protecting you at this time from discrimination in non-federally funded places on the basis of handicaps other than blindness or deafness. Indirectly, the state's Executive Order 143 (issued in 1978) forbids state agencies to contract with any organizations which discriminate against the handicapped. Therefore, you may want to check whether the organization or place which discriminated against you is any state contracts. If so, write a letter of complaint to:

Office of Affirmative Action
One Ashburton Place
Boston, MA
(617) 727-7441

State your name, address, and phone number, the name of the place responsible for the discrimination, the state agency involved, the nature of your handicap, a description of the problem, and the remedy you are seeking. Your complaint then will be investigated by the Office of Affirmative Action.

In some cases you may be able to sue on the basis of "intentional infliction of emotional distress." This is an often costly, lengthy, and difficult case to pursue; consult an attorney to see if it would be a possibility in your case. (See list of legal resources, Part Three, Section I (D).)

3. What are my rights under federal law to wheelchair accessible recreation activities?

By federal law (Section 504 of the Rehabilitation Act of 1973) every federally funded program must, as a whole, be accessible to handicapped people. This does not necessarily mean that every building or activity must be accessible. For example, a city's summer swimming program must allow participation by handicapped people not every pool would have to be accessible, but at least one pool should be, or other arrangements should be made such as for aides to assist the handicapped swimmers into the pool.

If making architectural changes is the only way a program can enable you to participate, then it must make those changes as soon as possible, and if the funding is from the Department of Health, Education and Welfare, the deadline is June 1980. Deadlines for most other federal funding sources have not been set yet. Any new construction or alterations must be accessible.

If a recreation program receives federal funds and is not accessible, send a letter of complaint to the nearest office of the federal agency supplying the funds. See Section IV and Question 1, above, for details on how to make a complaint.

4. What are my rights under state law to wheelchair accessible recreation activities?

By state law, public areas (walks, lobbies, entrances, sometimes toilets) must usually be accessible in the following places, if built or substantially altered (1) with public funds after 1968, or (2) with private funds after June 10, 1975:

Stores, shopping centers, restaurants (accessible areas: must also include areas where service or product is offered to public, aisles, check-out lanes)
Hotels, motels, boarding houses, apartment houses, all with 20 or more units: accessible areas must also include 5% of the units
Hotels and motels: accessible areas must also include public function areas, recreation and meeting areas, restaurants;
Recreation facilities more than 2 stories high or having an assembly capacity of 150 or more persons (rinks, pools, gyms, arenas, stadiums, bowling alleys, locker rooms, parks, campsites, roadside parks;
Places of assembly of 150 or more persons, including theaters, auditoriums, armories, chapels, lecture halls
Houses of worship

To make a complaint if one of these places is not accessible, contact: Architectural Barriers Board
One Ashburton Place
Boston, MA
(617) 727-6257

For details on the complaint process, see Section IV.

B. RIGHTS TO PUBLICLY FUNDED RECREATION

5. What legal rights to special funding exist for developmentally disabled people for recreation?

Children who are eligible for Chapter 766 (special education) may under certain circumstances have the school system send them to summer camp. Contact the Special Education Administrator in the child's school district.

Fishing licenses must be provided free to blind and mentally retarded persons.

Disabled people whose cars have handicapped license plates (see Section VIII (B)) are not required to pay fees for use of state bathing and boating facilities or for state parks, forests, reservations and recreation areas.

XI. MONEY: BANKS, BILLS AND CONSUMER RIGHTS

A. RIGHTS TO MANAGE YOUR MONEY

1. What are my rights to manage my own money?

You have the right to manage, keep and spend your own money unless:

(1) You are under guardianship (but you may be allowed to manage some or all of your own money). See Section XIII (A) and (B) for details.

(2) You are under conservatorship (but you may be allowed to manage up to $300/month). See Section XIII (C) for details.

(3) You have a representative payee who signs your benefits checks (such as Social Security or SSI). But you have the right to manage money from any other sources. See Section XIII (D).

(4) You are in an institution and have been found incapable of handling all or part of your money. Your ability must be tested, and you have a right to appeal that decision. See Section XVI on Rights in Institutions.

If you don't fall into one of these categories, then you are the decision-maker and no one can legally make your decisions for you.

B. BANK ACCOUNTS

2. My bank refused to open a bank account for me because I am in a state school. What can I do about it?

At present no law directly protects you from discrimination by banks, either on grounds of being from an institution, or being handicapped. Indirectly there are two possibilities, neither of which has been tested in a court yet. Under Section 504 of the Rehabilitation Act of 1973, federally funded organizations may not significantly aid organizations which discriminate on the basis of handicap. Therefore any federally funded organization should not hold bank accounts in a bank which discriminates. You could try applying pressure

to the bank by having the federally funded organization withdraw its accounts. Similarly, under the state's Executive Order 143 (issued in 1978), state agencies are not to have contracts with organizations which discriminate on the basis of handicap. Again, pressure could be applied to the bank by withdrawal of state agency accounts. (See Section I for details.)

You might also consider seeking a lawyer to sue a bank for "intentional infliction of emotional distress". It may be an expensive, difficult kind of case. See Part Three, Section I (D) for a list of legal resources.

Banks in Massachusetts are regulated by the state Banking Commission. You should make a complaint there, although the Commission's power to respond is not clear at this time:

Deputy Commissioner
Banks and Loans Division
Mass. Department of Administration and Finance
100 Cambridge Street
Boston, MA 02202
(617) 727-2102 (Consumer Assistance Division)

Some problems with banks may be covered by consumer protection laws, so you might also make a complaint to:

Attorney General's Office
Consumer Protection Division
One Ashburton Place
Boston, MA
(617) 727-1090

3. I have cerebral palsy and can't sign my name but I am perfectly capable of managing a checking account. Can I get one?

If your bank is willing, you may certainly have a checking account. You might open the account with an agreement that a friend would sign your checks for you; the bank's signature card and your checks would be signed "John Friend for Joseph Client".

If you prefer to sign with an "x" or a mark, you must have it witnessed. Your witness should usually be the same each time, and their signatures should be on file at the bank, for your protection.

You may also open a joint account with a friend, in which either of you is entitled to sign the checks.

If your bank refuses to let you open an account, see Question 2 above.

Section XI -B

4. I live in a community residence. The bank won't let me open an account until I give them a doctor's letter saying I am competent to handle my finances. Do they have the right to require that?

There is no law one way or the other at this time specifically on banks' practices.

Under state law, all persons are assumed to be competent when they turn 18 unless a court has ruled that they are incompetent. (Mass. General Laws Chapter 201 on guardianship) In addition, a state law says that people in institutions do not lose their right to handle their own affairs just by being admitted to an institution. (Mass. General Laws Chapter 123 Section 25) Only a judge can take away those rights.

5. Is discrimination against the handicapped illegal in credit matters?

There are no laws concerning discrimination against the handicapped in credit matters. Laws do forbid discrimination on the basis of age, sex, race, ancestry, marital status, and being a recipient of public assistance. This law is enforced by the Mass. Commission Against Discrimination. To make a complaint, send a letter stating your name, address and phone number, who discriminated against you, the basis of the discrimination, the remedy you suggest, and any other background information, to:

Mass. Commission Against Discrimination
One Ashburton Place
Boston, MA
(617) 727-4400

They will investigate your complaint and try to negotiate a solution, and if unsuccessful, go to court.

6. What is "power of attorney"?

See Section XIII (F).

Section XI -C

C. DEBTS

7. What should I do if I simply can't pay my bills?

(1) Figure out how much you can pay each month.

(2) Make a written agreement with the person to whom you owe money--how much you will pay, how often, on what day.

(3) If you get sick or lose your job, and won't be able to make your usual payments, write a letter in advance stating your problem and when you expect to pay again.

(4) It is much better to send a little than nothing at all. If you owe money to several places, send a little to each rather than all to one and none to the others.

8. What can happen to me if I don't pay?

People don't go to jail for being in debt, but some of your property or savings may be taken ("attached"), and your credit rating will be hurt.

Your bills may be turned over to a collection agency. Collection agencies must abide by certain laws and are not allowed to harass you. For problems with collection agencies, call:

Consumer Assistance Division
Mass. Banking Department
100 Cambridge Street
Boston, MA
(617) 727-2102

Section XI -D

D. CONSUMER RIGHTS

9. What are my rights as a consumer?

State law (the Consumer Protection Act, Mass. General Laws Chapter 93A) protects your rights when you:

--Pay for a service (from doctor visits to car repairs to hair cuts)
--Buy something
--Get credit
--Order by mail
--Get something repaired
--And other situations

Here are a few of your rights:

(1) If you receive packages in the mail which you did not order, you may keep them and do not have to pay for them.

(2) It is illegal for a company to advertise something as free when it is not.

(3) If you sign a contract to buy goods or services at home or anywhere other than the merchant's place of business, you have three business days in which to change your mind and cancel the contract with all your money back. Send a registered letter or telegram to the merchant saying you are canceling.

(4) It is illegal to make false claims about a product or fail to give important information about the product before selling it.

(5) If you are under guardianship or conservatorship any contracts you sign can usually be voided (canceled). Contracts can sometimes also be voided for someone who is not under guardianship but who is retarded, senile, mentally ill, or otherwise incompetent. This may require the help of a lawyer.

(6) You cannot be held to an "unconscionable" contract in which the merchant is taking unfair advantage of your inability to protect your interests; for example, a contract in which you buy a $300 TV set on an installment plan which would end up costing you $1200 with finance charges; or a written contract when it is clear you can't read.

(7) You have a right to get an estimate before you get repairs or other services. It is illegal to make an estimate deliberately too low. If the service person fails to tell you in advance that you will need additional parts or service to make an improvement work, you may either get your money back or have the additional parts for free.

(8) It is illegal to charge for unnecessary repairs or repairs for which you did not give permission.

(9) You have a right to expect that what you buy will work; for example, that an electric wheelchair will in fact go as fast as the seller or advertisement promised. It does not matter whether the promises were verbal or written or just common sense (a shoe should not fall apart the first time you wear it).

(10) A merchant must honor any written guarantees of repairs or replacement.

(11) There are several other rights as well, which are not included here due to space limitations.

10. What can I do if my consumer rights have been violated?

First, get the facts: date, description of article or service, model number or brand name, original advertisement if applicable, any warranties or guarantees, correct address of store and manufacturer, copies of any receipts, contracts, cancelled checks, letters or other papers.

Then contact the merchant in person or by phone, or better yet, by mail. Keep copies of all letters.

If not successful, then:

(1) Ask a consumer protection agency for help (see Question 11).

(2) If the merchant or provider of services must be licensed to do business in Massachusetts, contact the licensing or registration board. This information might be found on a license or certificate posted at the store or office, or may be gotten from the owner, or a consumer protection agency.

(3) If less than $400 is involved, you may go to small claims court, which is somewhat informal and is designed to help

people with small financial complaints. You do not need a lawyer; you may speak for yourself. Call the nearest district court for the times and address where the small claims court meets.

(4) If more than $400 is involved, and consumer protection agencies have not been successful in helping you, see a lawyer about suing. In certain cases you may be entitled to double or triple your money back.

11. What consumer protection agencies are there?

Mass. Consumers Council 100 Cambridge St. Boston, MA 02202 (617) 727-2605	Files legislation, intervenes in rate-making proceedings, and acts on behalf of consumers in the legislature. Also offers extensive public education.
Local consumer groups (contact your town or city hall for address)	Advise consumers on individual matters. Intervene on behalf of consumers.
Complaint Division Executive Office of Consumer Affairs One Ashburton Place, Room 1413 Boston, MA 02108 (617) 727-7780	Part of the Governor's office, this office will try to intervene on behalf of consumers.
Consumer Protection Div. Attorney Generals Office One Ashburton Place Boston, MA 02108 (617) 727-8400	The largest of the organizations which intervene on behalf of consumers. Will investigate complaints and take legal action if necessary to enforce consumer protection laws.

Branches of Attorney Generals Office:
235 Chestnut Street
Springfield, MA
(413) 785-1951

P.O. Box 462
Westboro, MA
(617) 366-1755

Deputy Commissioner, Banks & Loans Division Dept. of Administration & Finance 100 Cambridge St. Boston, MA 02202 Credit: (617) 727-3145 Banking, collection agencies: (617) 727-2102.	Will investigate and intervene on behalf of consumer in banking and credit areas.

E. IDENTIFICATION CARDS

12. I don't have a driver's license. How can I get an identification card for cashing checks and so forth?

Any individual 18 years of age or older who does not have a driver's license may apply to the Registry of Motor Vehicles for an identification card. The card shows name, address, age and photograph. Intended for people who do not have driver's licenses, the card is voluntary, and does not in any way indicate the person has a handicap.

To apply, contact your local Registry of Motor Vehicles office. You will need to bring proof of your age; the Registry will tell you the acceptable forms of proof. The card costs $5.00 and is valid for four years. (Mass. General Laws Chapter 90 Section 8E)

XII. INSURANCE

1. I have a developmental disability. What legal protections are there to help me get health insurance?

Insurance companies may be unwilling to give full health insurance coverage to a person with a disability on the assumption that his or her claims are likely to be higher than normal. Insurance is often denied altogether, or offered at a higher charge, or offered under the condition that expenses related to the disability will not be covered. There are some legal protections now, but there are still many gaps.

If you are under 19 and covered under your parents' health insurance policy, by law the insurance company must continue to cover you if you give proof within 31 days after your 19th birthday that you are mentally or physically incapable of earning your own living. Insurance coverage must continue until you become capable of earning your own living. (Mass. General Laws Chapter 175, Section 108)

Some insurance companies will give you free coverage when you turn 19 if you have been insured under your parents' policy and give proof to the company within a certain time period that you are handicapped. Contact your insurance company for details.

Another state law prohibits insurance companies from refusing to issue an accident and sickness insurance policy on grounds of blindness or deafness. (Mass. General Laws Chapter 175, Section 108A). If you have a complaint based on this law, call the Consumer Services department of the Mass. Division of Insurance, 100 Cambridge Street, Boston; (617) 727-3341.

Under federal discrimination laws (Sections 501, 503, and 504 of the Rehabilitation Act of 1973), an employer who (1) receives federal financial assistance, (2) has federal contracts over $2500, or (3) is a federal agency may not discriminate against handicapped employees in terms of fringe benefits, which often include group health insurance policies. Such insurance policies should not discriminate on the basis of handicap against people who are otherwise qualified to be covered. How the courts will interpret these requirements is not yet clear. For more information on these federal laws and enforcement procedures, see Sections I and II of this Guide.

In a similar way, a Massachusetts Governor's Order (Executive Order 143) says that state agencies in the

executive branch of government may not discriminate against handicapped people in terms of fringe benefits. To make a complaint, contact:

Office of Affirmative Action
One Ashburton Place
Boston, MA
(617) 727-7441

As a general rule, health insurance coverage is more readily available to a disabled person under a group plan than an individual plan.

According to a recent law, certain minimum amounts of coverage are now required for mental illness expenses. As of January 1, 1976, insurance companies are to provide:

--The same benefits for hospitalization in a psychiatric ward of a general hospital as for medical hospitalization in the same hospital;

--Benefits for at least 60 days hospitalization in any Department of Mental Health or Department of Mental Health-licensed facility (i.e. most private psychiatric hospitals) per calendar year;

--Benefits for at least $500 of out-patient psychiatric treatment over a 12-month period in comprehensive health service organizations, licensed or accredited hospitals, Department of Mental Health programs, consultations, diagnosis or treatments by psychotherapists, psychologists or psychiatrists. (Mass. General Laws Chapter 175, Section 47B; Chapter 176A Section 8A (Blue Cross) and 176B, Section 4A (Blue Shield).

A complicating factor here is that an older law (Mass. General Laws Chapter 175, Section 108) allows insurance companies to deny benefits for "pre-existing conditions." However, an argument can be made that mental illness was not intended to be considered a pre-existing condition or else Section 47B would have little meaning. This issue has not been settled yet.

For complaints about mental illness coverage under these laws, contact:

Consumer Services Department
Mass. Division of Insurance
100 Cambridge St.
Boston, MA
(617) 727-3341

Consumer Protection Division
Attorney General's Office
One Ashburton Place
Boston, MA 02108
(617) 727-8400

2. What are my rights as a disabled person to get life insurance?

A Massachusetts law says that no insurance company may refuse life insurance coverage on grounds of mental retardation, as long as (1) the individual is at least three years old, (2) the amount of insurance requested is exactly $1500, and (3) the individual has no other life insurance. (Mass. General Laws Chapter 175 Section 120A)

Federal discrimination laws and the state Executive Order 143 would have the same effect on life insurance as on health insurance. (See Question 1 above.)

3. Where can I get help with insurance problems?

First contact the claims office of your insurance company and ask for written explanations of their action or decision. If you are not satisfied with the response, call:

Consumer Services Office
Mass. Division of Insurance
100 Cambridge St.
Boston, MA 02108
(617) 727-3341.

This state agency is responsible for regulating the insurance companies.

XIII. COMPETENCE, GUARDIANSHIP, CONSERVATORSHIP AND OTHER OPTIONS

A. COMPETENCE

1. What are my rights to make my own decisions?

In Massachusetts you have the right to make your own decisions once you turn 18, unless you are under guardianship or conservatorship. Even if you are considered mentally retarded, mentally ill, developmentally disabled, or otherwise handicapped, you still have this right, unless someone has gone to court and become your guardian or conservator.

2. What is competence?

"Competence" means being capable of making informed decisions about your affairs. Only a court can declare you legally incompetent.

The word "competence" is also used in criminal cases as in "incompetence to stand trial." This has a completely different meaning and has nothing to do with guardianship. Being incompetent to stand trial does not necessarily mean you are incompetent to make informed decisions about your affairs, or that you need or have a guardian. See Section XVII on Criminal Matters.

B. GUARDIANSHIP

3. What is guardianship?

Guardianship is an official way of having someone else make personal and financial decisions for you if you are either so mentally ill, or so mentally retarded that you can't make informed decisions yourself.

Being physically disabled alone is not grounds for guardianship. And many people who are mentally ill or mentally retarded cannot and should not be put under guardianship, because they are perfectly competent to make good decisions.

Only a judge in a court can put you under guardianship. Once you turn 18, even if you are mentally ill or mentally retarded, no one (not even your mother or father) is your guardian unless a court has said so.

4. What is a conservator?

A conservator is like a guardian except that a conservator only makes your financial decisions, not your personal decisions. Only a court can put you under conservatorship. See Section XIII(B), below.

5. When do people need guardianship?

Guardianship takes away a lot of your rights (see Question 6). It should only be used as a last resort when nothing else can give you the decision-making help that you need because of your mental retardation or mental illness.

Alternatives should be considered first, like conservatorship, representative payees, informal advice and assistance, teaching you how to make better decisions, special bank accounts, and so on. (See Questions 18.) There must be some risk to your health, welfare or property before a guardian can be appointed for a mentally retarded person.

Guardianship is for people with very serious problems in understanding things and making decisions. Things to consider are:

--Can you understand in simple terms the basic facts and implications of decisions? (Medical decisions, where to live, work or go to school, how to manage your money, whether to sign something, etc.).

--Do you know how to take care of yourself or get other people to take care of you (for example, if you are hungry, sick or in danger)?

--Can you understand the basic laws of the community enough to keep out of trouble?

--Are you free enough from mental problems like hallucinations or delusions to make sound judgments about important issues?

You should not be put under guardianship just because you've made some poor decisions, or taken some risks, or keep changing your mind. You don't have to be able to support yourself; or read or write, or even talk, as long as you can communicate your needs and decisions.

For some people guardians are necessary and very helpful for making important decisions, signing consent forms for surgery and educational plans, managing finances, deciding where you will live, and so on.

A guardian can speak up for you, be your advocate, and protect you , but a friend or advocate can do these things too.

6. How does having a guardian affect my life?

The court may give your guardian control over all areas of decision-making (a full guardianship), or only some areas (a limited guardianship). You gain certain protections and lose certain rights.

In a full guardianship, your guardian will make decisions about medical matters (operations, taking medications), education, work, where you live, whom you associate with, where you travel, your finances, and so on. You lose the right to vote, to make contracts, to sign your checks, to make decisions in the areas above, etc.

Sometimes you can be allowed to manage a little money each month as pocket money, but your guardian will usually manage the rest. However, all of your money and property still "belongs" to you and is for you, not for your guardian.

Being under guardianship does not necessarily mean you can't get married (see Section XV(A)) or make a will (see Section XIII(G)). Guardians probably do not have the right to have you sterilized, whether you agree to it or not. See Section XV(B).

Guardianship does not guarantee that you will get the medical, educational or social services you need. But at least you cannot be turned down on grounds of having no one to sign for you.

Being under guardianship does not change your eligibility for programs or services.

Your guardian can only admit you to a mental health or mental retardation institution by getting court approval. This is one decision a guardian does not have complete control over. (See Question 17). Your guardian does have control over admitting you to other kinds of institutions like nursing homes or community residences, as long as your guardian is acting in your best interest.

If a decision involves something extremely serious, like particiapating in a dangerous research project, or having an abortion, or deciding not to give you life-saving medical treatment, your guardian should get the court to make the decision.

Your guardian should visit you, find out what your needs are, be available to make decisions about you, and make decisions in your best interest. You may sometimes disagree with a decision; if it was a major decision and was not made in your best interest, you may go to court and object to it. See Question 12.

Guardianship can be helpful or harmful, depending on your guardian and whether you needed a guardian in the first place.

7. Does my guardian have to pay for my care and expenses?

Your guardian is not required to pay out of his/her own pocket for your expenses. However, your guardian must see that your expenses get paid somehow-whether out of your money, or by welfare, by finding you free services, and so on.

A guardian can in fact get paid a small percentage from your estate for being a guardian, if you have enough money and if the court approves.

8. How does someone become my guardian?

First, someone files a "petition" in the local Probate Court asking for a guardian to be appointed for you. This can be done by your parent, two or more relatives or friends, or certain non-profit corporations and state agencies like the Department of Mental Health.

Second, someone must be willing to become your guardian. Often this would be a parent or relative, but does not have to be. Some non-profit corporations can become guardians.

Third, medical evidence of your incompetence is required. For mentally ill people, a physician must examine you within the last 30 days and sign a physician's certificate. For mentally retarded people, a team consisting of a physician, a licensed psychologist, and a social worker must examine you within the last 180 days and sign a "clinical team report."

Fourth, certain other papers must be filed at the court, and you must be notified that someone is seeking guardianship and that you have a right to a hearing to object. (Exception: in emergencies, you will not be notified ahead of time; you will find out within 72 hours afterwards that a guardian has been appointed, and you then have the right to ask for a hearing to object).

If you have asked for a hearing, you will have a chance to state your objections. You should probably get yourself a lawyer. (See Part Three, Section I(D) for a list of legal resources).

If you do not ask for a hearing, in most cases the judge will go ahead and issue the guardianship.

9. I need a guardian but I don't have any friends or relatives who will do it. Where can I find someone?

You (or your social worker) will have to do your own searching. There is no statewide organization in Massachusetts now which is responsible for creating a pool of potential guardians.

The Council of Elders, Inc. is starting a program to supply guardians and conservators for people over 60 in certain areas of Boston. Contact the Department at (617) 262-6600, x.52

10. How long does guardianship last? What is a temporary guardianship?

Guardianships usually start on a temporary basis for 90 days, and unless someone objects, they are usually almost automatically made permanent at the end of 90 days.

Permanent guardianship lasts until someone goes to court to end the guardianship or until the person under guardianship, called the "ward," dies.

Guardianship does not end when the guardian dies or resigns; things are in limbo until someone goes to court to remove the guardianship or get another guardian.

11. I'm in an institution. Does this mean I'm incompetent? Is the state my guardian?

You can only be declared incompetent by a court. The fact that you are in an institution does not take away your right to sign consent forms and contracts, to have bank accounts and driver's licenses, to vote, to marry, and so on.

Even if you were a ward of the state as a child, once you turn 18 no one is your guardian unless a court has declared you incompetent.

However, since the state is responsible for taking care of people in state institutions, it makes rules about life in institutions, and makes some decisions about your life in particular. This is similar to the role a public school plays for its students. The dividing line is sometimes very fine between what you as a competent person have the right to decide, and what the institution, in its role of being responsible for you, has the right to decide. See Section XVI on Rights in Institutions.

12. I don't think my guardian is doing a good job. What can I do?

First, have someone (your social worker, an advocate, a lawyer) tell your guardian what is wrong and how to improve.

If that doesn't work, you will probably need a lawyer, who would investigate your guardian's actions then ask the court for removal of your guardian.

Common errors guardians make are:

--Not using your money for you
--Mixing your money with their own
--Not being available for decisions
--Not making decisions in your best interest
--Not staying in touch with you and your needs
--Refusing to come to important meetings about your education, medical needs, living arrangements, etc.

13. How can I prevent someone from obtaining guardianship over me?

First, suggest an alternative (see Question 18). Show this Section to the person who wants guardianship. Try to get someone else on your side too--an advocate, a social worker, a relative.

Be sure to keep and pay attention to any notices from the court; get in touch with legal help immediately to advise you on what to do. In most cases, if you do not actively request a hearing you will not get one. (See list of legal resources, Part Three, I (D).)

The court notice will say, "If you desire to object..you or your attorney should file a written appearance in said Court before_____, the return day of this citation." The "return day" is the deadline for telling the court you object and want a hearing. If you do not request a hearing, chances are the guardianship will be issued.

If you can't find a lawyer in time, simply write a letter to the court named on the notice, and say you object to the guardianship and want a hearing. Sign your name and give your address and phone number.

You will probably be more successful if you have a lawyer.

14. Can my guardianship be ended if I get better at handling my own affairs?

First, ask your guardian if he or she is willing to go to court and ask for an end to it.

If your guardian refuses, you will have to find a lawyer to help you. Contact one of the legal agencies listed in Part Three, Section I(D).

15. How can I find out if I am under guardianship?

Check the records in the probate court for the county you lived in when someone might have become your guardian. Occasionally the records are in the county where a parent lives. These records are open to the public.

See Part Three Section I(C) for a list of probate courts.

16. What should I do if I think my guardian is misusing my money?

Your guardian is supposed to send an accounting of your finances to the court every year, although this is not often enforced. Check your court records (they are open to the public); or you or your advocate or attorney can ask your guardian for this information.

If your guardian will not provide this information and the court does not have an accounting, get legal assistance to ask the court to require an accounting.

Any bank accounts for your money should be in your name; the money is for you.

17. Can may guardian put me in an institution?

As of 1977, your guardian must get court approval before putting you in a mental health or mental retardation institution. The court must hold a hearing, at which you must be present except under extraordinary circumstances. You are entitled to a free court-appointed lawyer if you can't afford a private lawyer.

The judge can only approve your admission if it is in your best interest.

If someone wants to put you in an institution against your will, contact the Mental Health Legal Advisors Committee.

This law does offer some protection against being kept in a mental health or mental retardation institution by a parent or guardian after you are ready for placement in a community setting.

18. What are some alternatives to guardianship?

--Conservatorship--see Question 21.
--Limited guardianship--a guardianship which covers only those areas where you really need decision-making help; for example, a guardianship for medical decisions only.
--Guardianships which contain an agreement that if and when you no longer need guardianship your guardian will go to court to remove the guardianship.
--Representative payee--if you receive monthly checks from, for example, Social Security or SSI, the Social Security office can appoint someone else (the representative payee) to sign your checks and manage the money. This would be done only if you were incapable of doing so yourself. See (D) below.

--Teaching you to make better decisions.
--Advising you on what to do.
--Special bank accounts to help you manage your money. (See (E) below.)

19. What is a guardian ad litem?

A guardian ad litem is not the same as a guardian. A guardian ad litem is someone appointed by a court to speak for you in a court case when the judge feels you might not understand what's going on. When the case is over, you no longer have a guardian ad litem.

20. Where can I get more information about guardianship?

The Mental Health Legal Advisors Committee publishes a Handbook on Guardianship, Conservatorship and Other Options, available at: 294 Washington Street, Room 840, Boston, MA 02108. A one dollar donation is requested.

C. CONSERVATORSHIP

21. How is conservatorship different from guardianship?

The information above about guardianship is basically the same for conservatorship, except that a conservator handles only financial matters and does not handle personal decisions.

A judge can allow you to keep up to $300/month of your funds for use as you see fit, while the conservator controls everything else. If you want to have control over some of your funds, make sure you get a court hearing, and be sure to tell your lawyer.

D. REPRESENTATIVE PAYEES

22. What is a representative payee?

If you receive checks like Social Security or SSI or Veterans checks, and are not capable of managing them properly, someone can be appointed as your representative payee. Your payee will sign your checks and manage the money for you. The money is still supposed to be used for you.

Your payee does not have the right to manage any other funds of yours, or to make any decisions for you other than how your checks are spent.

23. How should my representative payee spend my checks?

He or she should first see that you have food, clothing, and shelter; and pocket money if you can use it wisely. Then your payee should see to your special needs such as education, rehabilitation and medical care.

24. Who decides if I need a payee, and on what grounds?

The agency that sends your checks decides. For Social Security or SSI, it's the Social Security Administration.

If you are under guardianship or conservatorship, or are a drug addict or alcoholic, a payee is automatically appointed. Otherwise the procedure is that someone tells the Social Security Administration you are incapable of handling your checks. Social Security will ask opinions from your doctor and your family or care providers or institution staff. Social Security does not necessarily notify you before making a decision on your case.

25. I don't think I need a representative payee any more. How can I get to manage my checks myself?

Contact your local Social Security office and ask for the appropriate forms. Again, Social Security will contact various people for their opinion on your capability. If Social Security still says you need a payee, you can appeal their decision. Your Social Security office should give you details on how to appeal, or you can contact one of the legal organizations listed in Part Three Section I (D).

26. Who can become my representative payee?

A representative payee can be a friend, a relative, a guardian, someone you're living with, or an institution you live in.

If you want to change who your payee is, ask Social Security for the forms.

27. Where can I go for help if I have problems with my representative payee?

First call your local Social Security office. Then try one of the legal resources in Part Three, Section I (D).

E. SPECIAL BANK ACCOUNTS

28. How can special bank accounts help me manage money?

You might get a joint bank account so that signatures of both yourself and someone else are needed for withdrawals.

You can arrange with your bank to have Social Security or other monthly checks deposited directly in your bank account.

You can ask your bank about setting up a "permanent withdrawal order" which means the bank will automatically send a certain amount each month to someone you designate--for example, to your landlord for rent, or to you for pocket money.

F. POWER OF ATTORNEY

29. What is "power of attorney"?

Anyone who is competent and over 18 may give "power of attorney" to another person (not necessarily an attorney) to act on his/her behalf on a specified matter. Typical occasions would be selling property, collecting debts, handling bills and income while you are away, and so forth. Giving power of attorney to someone is different from getting a guardian or a representative payee because it does not imply you are incompetent.

Power of attorney is given by writing a document stating the powers you are giving and to whom. Banks often have forms for this purpose, or you should see a lawyer for assistance. The form must be notarized.

G. WILLS

30. May a developmentally disabled person or a person under guardianship make a will?

Competence to make a will is treated in law as a special category of competence or "capacity". You may be incompetent in many ways, and even under guardianship or conservatorship but still be capable of making a valid will. You must be able to understand in a general way the purpose of a will, what property you have, and who it is appropriate for you to give your property to.

If anyone challenges your will, the burden is on your side to show that you were of sound mind and capable at the time of understanding what you wrote. Being under guardianship or being labelled as mentally retarded or mentally ill at that time makes it difficult but not necessarily impossible.

Being in a mental health or retardation institution is not, by itself, grounds for finding you incompetent to make a will. (Mass. General Laws, Chapter 123, Section 25)

You should make sure that your witnesses are of high character and intelligence and that they know you and your abilities well.

You should also make sure that no one could say you were being influenced too much by someone. For example, anyone you are leaving money or property to should probably not be present when you discuss the will with your lawyer or sign it.

31. Can a will be made for someone who is incapable of understanding wills?

If the person is under guardianship, the guardian can make a plan for disposition of the person's estate (money, property) taking into account as well as possible any intentions or desires the incompetent person is able to express. This is not exactly the same as a will but it does provide for disposition of property after death; it can also be used for disposition of the estate (large gifts, for example) before death. The plan must be approved by the probate court. (Mass. General Laws Chapter 201, Section 38)

XIV. VOTING

1. Are there any restrictions on my right to vote on account of my developmental disability or my living in an institution?

Your right to vote can only be taken away from you if you are under legal guardianship. Otherwise you are entitled to vote, regardless of your disability or place of residence. (Mass. General Laws, Chapter 51, Section 1; also established by a case called Boyd v. Belchertown, settled in the Supreme Judicial Court of Massachusetts on Sept. 30, 1975)

You must, of course, meet the other qualifications such as being 18 or older, and being registered to vote.

Physically disabled potential voters have the right to have the registrar of voters come to them to register them. Contact your town or city election commission. (Mass. General Laws Chapter 51 Sections 22A and 42A)

At the request of 10 or more voters, a special voter registration session must be held in a location requested by such voters; for example, in a hospital, nursing home, school, etc. Contact your town or city election commission for details. (Mass. General Laws Chapter 51 Section 42B)

You may vote by absentee ballot, for example, if you have difficulty getting to the polls due to physical disability.

According to state law, locations for polling booths must be wheelchair accessible if built or altered (1) after 1968 with public funds or (2) after June 10, 1975 with private funds.

XV. FAMILY RIGHTS

A. MARRIAGE

1. Can I legally be prevented from marrying on account of having a disability?

Unless you are under guardianship, you have the same rights to get married as a non-disabled person. There are no Massachusetts laws which prohibit your getting married on grounds of having a physical or mental disability.

However, the validity of a person's marriage contract can be questioned afterwards on grounds that he or she was mentally incapable of understanding what he or she was getting involved in. (Mass. General Laws, Chapter 207, Section 5)

By itself, the fact of being in a mental health/mental retardation institution is not sufficient grounds for saying you are incompetent to marry, and therefore cannot legally be used to prevent you from getting a marriage license. (Mass. General Laws, Chapter 123, Section 25)

Thus, even ifyou have a disability or are in an institution, you have the same right to get married as anyone else, unless you are under guardianship. If a marriage license clerk refuses to give you a license, contact one of the legal resources listed in this handbook (Part Three, Section I (D)). In applying for a license, of course, you must meet the usual requirements (blood test, age, etc.).

Being under guardianship does not necessarily mean you cannot get married. However, your guardian would probably have to approve.

B. ABORTION AND STERILIZATION

2. If I am in a mental health or retardation facility, may I obtain an abortion?

Generally, an abortion may not be performed in Massachusetts

without the informed consent of the woman. If the doctor is satisfied that you understand the procedure fully, and consent to it, you have the same rights as any other woman.

3. If I am under guardianship, do I have the right to seek an abortion, if my guardian disagrees? Or may I refuse an abortion if my guardian believes I should have one?

There has been no final answer offered for these questions. It may be that even if you have been found "incompetent", and a guardian appointed for you, that a judge might find that the question of bearing a child is so personal that no on else has the right to consent to an abortion for you. It may also be that the judge would allow the guardian to make the decision, on the basis of what you would choose if you were competent.

4. What are my rights in regard to sterilization?

In Massachusetts, if you are over 18 and competent to give informed consent, the decision whether to have a sterilization is up to you. Except in emergencies, your informed consent is required before you can be sterilized, or else the doctor risks a fine of up to $10,000. (Mass. General Laws, Chapter 112, Section 12W)

The same is true if you are a married, widowed, or divorced minor and capable of giving informed consent. (Mass. General Laws, Chapter 112, Section 12F)

Massachusetts law does not specifically say whose consent is required or if anyone's consent is acceptable when the person to be sterilized is a minor (under 18) or is incompetent. It is highly likely that the consent of a parent of a minor or a guardian of an incompetent person is not enough. Most likely, the parent or guardian would at the least have to get approval from the probate court, and the law is not clear on whether even the probate court has the authority to give this approval. Strong legal arguments can be made either way on the probate court's authority to do this. Again, a doctor who does a sterilization without proper consent can be fined up to $10,000.

Therefore, if you are a minor or under guardianship, and there is a question of your being sterilized, contact a lawyer for advice on your rights. (See list of legal resources, Part Three, Section I (D).)

C. SEXUALITY

5. What are my rights to engage in sexual activities if I am a resident of a mental health or retardation institution or community residence?

Your rights to engage in sexual activities are based on your rights to privacy, including the right to a private space free from intrusion or observation by institution or residence staff, unless there are serious reasons to believe someone is being physically harmed or someone's rights are being violated or there is an emergency such as a fire, or the like. Both competent and incompetent persons have this right to privacy.

The institution or community residence should provide you with sex education and birth control. If you are a competent adult the decision to participate in sex education classes or to use birth control is up to you.

D. THE RIGHT TO BEAR AND RAISE CHILDREN

6. Can my children be taken away from me if I am in an institution or if I have a disability?

There are only two ways in which your minor children may be taken from you. First is if a court finds that you do not provide the necessary physical, educationl or moral care, or that you cannot provide proper conditions for the child's "sound character development". If the court finds that your child is abused or neglected, it may order the Department of Public Welfare (or other child care agency) to take custody of the child. This may be done on a temporary or permanent basis. (Mass. General Laws, Chapter 119, Section 24)

The second way is if the probate court finds that your consent is not required for the adoption of your child, because you are not able or fit to assume parental responsibility. (Mass. General Laws, Chapter 210, Section 3)

7. What are my rights if someone tries to take my children away from me?

You have a right to a hearing, and to be represented by an attorney. If you cannot afford an attorney, you should ask the court to appoint one for you. The questions to be decided by the judge involve making judgments regarding a very serious and personal process. You have the right to present all relevant witnesses and evidence regarding your ability to raise a child. The judge must decide according to what will serve the best interests of the child.

If you are considering placing your child with an agency, or with a foster family, or letting someone else care for your child for any length of time, or if someone or some agency is trying to take your child away from you, you should seek legal advice right away. Unless your child is being harmed in some way, you have the fundamental right to raise him or her.

8. What if my guardian wants me to give up my child?

If you are under guardianship, you have the right to ask the probate court to decide whether you should be required to give upyour child. You should seek legal advice on how to assert this fundamental right. Being subject to a guardianship does not automatically mean you may not raise your own child.

9. Can I be prevented from adopting a child on the basis of my disability?

There are no laws that specifically bar you from adopting a child on the basis of a disability. However, your ability to provide good parenting will be evaluated in determining whether you are a suitable person with which to place a child.

XVI. RIGHTS IN INSTITUTIONS AND COMMUNITY RESIDENCES

Your rights as a resident in a mental health or retardation institution or in a community residence are the same as your rights if you lived in your own home, except where a law specifically allows a right to be restricted. Most of these laws are found in Chapter 123 of the Mass. General Laws. Details of implementing the laws are found in Department of Mental Health regulations.

For assistance in these areas, see the list of legal resources, Part Three, Section I (D), particularly the Mental Health Legal Advisors Committee and the Developmental Disabilities Law Center.

A. ADMISSION AND DISCHARGE

1. What are my rights in regard to admission at state and private psychiatric hospitals in Massachusetts?

The following are the main ways you may be admitted to a psychiatric institution:

a) On a voluntary admission. (Not used in state hospitals in Massachusetts; used by some private psychiatric wards or hospitals.) (MGL Chapter 123, Sections 10 and 11)

b) On a conditional voluntary admission signed by:

--Yourself (if you are 16 or over);

--Your parent (if you are under 18); or

--Your legal guardian if you are under guardianship (in this case there must be a probate court hearing and the judge must approve; see Question 4 below). (MGL Chapter 123, Sections 10 and 11, and Chapter 201, Sections 6 and 14, as amended 1977)

c) On a 10-day emergency commitment for observation (also known as a "pink paper"). You can be sent to the hospital for 10-day commitment by:

--A licensed physician;

--A police officer; or

--A district court judge. Any person may ask the court to have someone sent to the hospital for observation. The judge must hold a special hearing to see if commitment for observation is necessary.

You cannot be admitted on a 10-day commitment unless you are mentally ill and dangerous to yourself or others. You must be given the chance to sign a conditional voluntary at the admitting hospital (MGL Ch. 123 Sec. 1,12)

d) On a 20-day observation in connection with being charged with a crime. Ordered by a judge to see if you are competent to stand trial or criminally responsible for your actions. See (B) below. (MGL Chapter 123, Section 15b)

e) On a 40-day observation after being found guilty of a crime to aid the judge in sentencing. See (B) below. (MGL Chapter 123, Section 15e)

In all types of admissions you have the right to a written statement of your rights. (DMH Regulations 221.11) Before signing a voluntary or conditional voluntary, you must be given an opportunity for legal consultation about the effect of signing. (MGL Chapter 123, Section 10)

2. What are my rights in regard to discharge from state and private psychiatric hospitals?

a) First, the hospital must discharge anyone who is no longer in need of care and treatment as an inpatient, whether you are voluntary, committed, etc. (MGL Chapter 123, Section 4)

b) If you are on a voluntary, you may leave at any time without giving notice. (Chapter 123, Section 10, 11)

c) If you are on a conditional voluntary, you must give three days written notice before leaving (Sundays and holidays do not count). The hospital must either discharge you by the end of the three days or file a petition with the court by that time for your commitment (see Question 3 below). (MGL Chapter 123, Sections 10, 11)

--If you are 18 or over and not under guardianship you may give notice.

--If you are 16 or 17 years old and on a conditional voluntary, you may give notice even if your parent signed you in.

--If you are under guardianship, you may have to have your guardian's approval to give notice. It depends on who signed you in and what kind of authority the court gave your guardian. If your guardian's approval is required, *see Question 4* below on your options for getting discharged. (MGL Chapter 123, Section 10, 11; Chapter 201, Sections 6 and 14)

d) If you are on a 10-day commitment:

--You must be given a chance to sign a conditional voluntary; you can then sign a 3-day notice to leave (see above);

--If you did not sign a conditional voluntary, the hospital must either discharge you within 10 days, or file a petition with the court for your commitment (see Question 3 below).

e) If you are on a 20-day observation for competence to stand trial or criminal responsibility, you must be sent back to the court within 20 days unless the hospital asks for a 20-day extension.

f) If you are on a 6-month or 1-year commitment, you must be released at the end of the 6 months or 1 year unless the hospital files a petition for your commitment again.

3. What are my rights if the hospital asks the court for my commitment?

You have a right to a hearing, which will be automatically scheduled and held within 14 days of the hospital's request to the district court. Until the hearing you will be held at the hospital. You and your nearest relative must be notified of the time and place in advance. You may be committed even if you waive your right to a hearing.

You have a right to a lawyer. If you cannot afford a private lawyer, the court will appoint a free one for you. You and your lawyer must have at least 2 days to prepare for the hearing.

The hearing will usually be held at the hospital, but you may ask to have it held at the courthouse.

You have a right to be examined by an independent doctor at your own expense who can testify for you at the hearing. If you cannot pay, the court may (but does not always) provide for an independent examination.

You may bring other witnesses to the hearing.

Your lawyer may see all your records before the hearing.

You and your lawyer have the right to cross-examine the witnesses for the hospital.

You have the right to be present at the hearing and to speak on your own behalf if you wish.

You can be committed only if the judge finds that (1) you are mentall ill, (2) that you are dangerous to yourself or others, and (3) that there is no less restrictive setting appropriate for you.

The first order of commitment is for up to six months; any further commitments are for up to one year. The hospital may release you at any time if you are no longer mentally ill and dangerous and in need of the hospital setting. When the commitment expires, the hospital must release you or ask the court to commit you again.

You have the right to appeal the outcome of the commitment hearing.

At any time while you are committed, you may apply to a superior court for release (called a "Section 9b" or "habeas corpus" procedure). A hearing must be held promptly and a lawyer appointed for you if you cannot afford a private lawyer. If the judge finds you are not mentally ill and dangerous to yourself or others and in need of the hospital setting, you must be released.

4. What are my rights if my guardian admits or tries to admit me?

You cannot be admitted to a mental health facility by your guardian unless there has been a probate court hearing at which the judge finds that admission is in your "best interest". You have the right to a court-appointed lawyer if you cannot afford a private lawyer, and you must be present at the hearing except under extraordinary circumstances.

However, in extreme emergencies, the judge can, without your being present at a hearing, authorize your guardian to admit you; but you have the right afterwards to request a hearing to object to the decision. (Chapter 201, Section 14 as amended, 1977)

At any time after being admitted by your guardian, whether or not you had a hearing, you may try to get out by going to the probate court to either (1) have the guardianship removed, or (2) contest whether your hospitalization is still in your best interest. To request a hearing (and a free court-appointed laywer if you cannot afford a private lawyer), write a letter to the probate court or contact the Mental Health Legal Advisors Committee for assistance (294 Washington Street, Room 840, Boston, MA, 02108; 617/723-2876).

See also Section XIII on Competence and Guardianship. A publication called A Handbook on Guardianship, Conservatorship and Other Options is available from the Mental Health Legal Advisors Committee; a one dollar donation is requested.

5. What are my rights in regard to admission and discharge at state schools for the mentally retarded?

State schools may take clients only on a voluntary basis, usually with a requirement to give three days notice before leaving.

If you are under 18 your parent can sign you in. If you are under legal guardianship, your guardian may admit you but only after a probate court hearing at which the judge has found that admission is in your best interest. (See the procedures in Question 4 above.) However, at the present time, state schools have been taking very few admissions, if any, due to statewide policies of trying to close down the big institutions.

State schools must discharge any residents who are no longer in need of in-patient care and treatment.

A mentally retarded person cannot be committed involuntarily to an institution unless he or she is also mentally ill and meets the other requirements in Question 3 above.

6. What are my rights in regard to admission and discharge at community residences and cooperative apartments for mentally retarded persons?

Community residences and cooperative apartments may take residents only on a voluntary basis. You have the right to leave at any time.

B. CRIMINAL DEFENDANTS

7. If I am charged with a crime, can I be sent to a mental hospital?

At any time during a criminal proceeding, the judge may order a psychiatric examination of you, if there is a question of competence to stand trial, or criminal responsibility. That examination will usually take place at the court house, but the judge may, after seeing the results of that examination, order you hospitalized at a public mental hospital for observation for 20 days with a possible 20-day extension. By the end of the observation period, you will be returned to the court. However, you may ask to stay in the hospital during the rest of the criminal proceeding and the judge will usually order it. (Mass. General Laws, Sections 15a, 15b)

8. What happens if the psychiatric examination indicates that I am incompetent to stand trial?

A hearing will be held, and if the judge finds that you are incompetent to stand trial, he may order a further hospitalization for up to 40 days, during which time a petition for your civil commitment may be submitted by the hospital (similar to procedures described in Question 3 above). (Mass. General Laws Chap. 123 Section 16a,16b) If you are not found mentally ill and dangerous, you must be released. You may not be tried for a crime until such time as you are declared competent to stand trial.

(Note that "competence to stand trial"is not the same kind of competence that is involved in guardianship. See Section XIII on Competence.)

9. What happens if I am found not guilty by reason of a mental disability?

The judge may follow the same procedure as described in Question 8. ("Not guilty by reason of a mental disability" is also known as "the insanity defense" or "not criminally responsible".) (Mass. General Laws Chapter 123, Section 16a,16b)

10. If I am found competent to stand trial, and am tried, may I request to be sent to a mental health facility?

Yes, during the criminal proceeding (see Question 7). (Mass. General Laws Chapter 123, Section 15b). You and your lawyer may also want to talk with the prosecutor about

hospitalization as an alternative to the criminal process. This should be considered very carefully by your attorney.

11. If I am found guilty of a crime, may I be sentenced to a mental hospital?

The judge may order hospitalization for a period up to 40 days, in order that the hospital's report will help in sentencing you. During that time, the hospital may petition for your civil commitment (similar to procedures in Question 3). (Mass. General Laws, Chapter 123, Section 15e)

12. If hospitalization is ordered, will I have to be sent to Bridgewater?

The judge may send you to Bridgewater only if you are a man, and appear to require strict security. Otherwise, you may be ordered hospitalized in any public mental health facility. (Mass. General Laws, Chapter 123, Section 15b, 15e, 16a, 16b)

13. If I have been found incompetent to stand trial, is the criminal matter ended?

Not necessarily. If you are hospitalized, there will be periodic reviews of your competence to stand trial. If it is believed that you are competent, the hospital will notify the court and a hearing will be held. If you are found to be competent, a trial of the criminal matter will be held.

If you continue to be incompetent to stand trial, (1) you may attempt to have the criminal charges dismissed if you think you can show your innocence (Section 17b); or (2) you charges will automatically be dropped after a time period equal to the time you would have served had you been tried and found guilty (Section 16f). Or you may consult your lawyer about negotiating to have the charges dropped if you agree to seek treatment.

14. If I am sent to a mental hospital as a result of being a criminal defendant, are my rights within the facility any different from those of a voluntary or civilly committed patient?

Your movements within the facility may be restricted by order of the court, and such restrictions may not be removed without approval of the court. Also, you may not be discharged from the hospital without prior notification to the court or district attorney. (Section 16e)

15. If I am serving a criminal sentence, can I be hospitalized for psychiatric care?

You can be hospitalized either (1) involuntarily, or

(2) voluntarily with the approval of the person in charge of your prison or house of correction. Consult a lawyer for details. (Section 18)

16. Where can I get further help or information about my rights as a criminal defendant involved in the mental health system?

The criminal law is a very complex process, requiring sensitive judgments on the part of attorneys and judges. The matters discussed in this section are only brief highlights of how the criminal justice system might affect someone with a disability. Professional legal advice should always be sought on these and other questions regarding criminal matters.

If you are indigent, you will be given a free court-appointed lawyer to defend you. If you are not indigent, see the list of legal resources, Part III, Section I (D). The Mental Health Legal Advisors Committee may provide you with information and assistance on these matters as well.

For information on the criminal process in general and your rights, see Section XVII, Criminal Matters.

C. YOUR RIGHTS AS A RESIDENT IN A PSYCHIATRIC HOSPITAL

You have all the rights that you normally have in the community unless there is a basis in law for restricting a particular right. Here is a list of your basic rights. They are found in Chapter 123 of the Massachusetts General Laws and in the Department of Mental Health Regulations (called Title 4 of the Code of Human Services Regulations, or 4 CHSR).

These rights apply to state hospitals in Massachusetts run by the Department of Mental Health; and to some private psychiatric facilities, depending on how they are licensed and by whom, and what contracts they may have with federal or state agencies. For detailed information on applicability to private facilities, you may need to contact the facility's legal office (if any) or one of the legal resources listed in Part Three, Section I(D).

(1) Right to treatment: you have a right to skillful, safe and humane treatment given with full respect for your dignity and personal integrity. (4 CHSR 221.03)

(2) Least restrictive alternative: you have a right to be treated in the least restrictive setting possible and to have the hospital assist in locating a less restrictive setting when you no longer need hospitalization. (MGL Chapter 123, Section 4)

(3) Communications: you have the right to receive all your mail unopened, and to send letters unopened to your attorney, the governor, the commissioner of mental health, your physician, your clergyman, any court, any public elected official, and your immediate family. Letters to anyone else may be opened and restricted when in your "best interest."

You have the right to reasonable amounts of stationery and postage.

Your physician, attorney and clergyman may visit you at all reasonable times. Visits from other people may be restricted if not in your best interests; the reasons must be stated in your treatment records.

You have the right to reasonable access to telephones to make and receive confidential calls, unless restricted for your best interests by the superintendent. The reasons for restrictions must be stated in your treatment record. However, you cannot be prohibited from contact with your attorney. (MGL Chapter 123, Section 23)

(4) Shock treatment and lobotomy: you have the right to refuse shock treatment or lobotomy, except (a) if you are on a six-month or one-year commitment, and your

guardian or nearest living relative consents; or (b) if you are under guardianship and your guardian consents. (MGL Chapter 123, Section 23; 4 CHSR 220.06)

(5) Restraint and Seclusion: You have a right not to be put into restraints or seclusion except in emergencies where there is the occurrence or serious threat of extreme violence, personal injury or attempted suicide. You must be given access to bathroom facilities, and you must be released from mechanical restraints every two hours (every four hours at night).

Seclusion rooms must have appropriate ventilation, heating, and light, and staff must check on you every hour. You cannot be put in seclusion or restraint for more than eight hours without a doctor's orders. Orders expire after eight hours unless renewed. Reasons for seclusion or restraint must be stated in your treatment records. (MGL Chapter 123, Section 21; 4 CHSR 223)

(6) Competence: You have the right not to be treated as incompetent to manage you own affairs, to vote, to marry, to make contracts, to have drivers licenses and professional licenses, or to make a will simply because you are in a hospital. These rights can be taken away only if a probate court judge at a hearing rules that you are incompetent. (See Section XIII on Competence.) (MGL Chapter 123, Section 25)

(7) Possessions: You have the right to wear your own clothes, keep and use your possessions, and have access to private storage space. (MGL Chapter 123, Section 23)

(8) Treatment plans and periodic review: your treatment must be provided according to a treatment plan. You have a right to a periodic review of your treatment. The review must include a clinical examination, an evaluation of your legal competence, and a consideration of all possible alternatives to hospitalization.

Unless you have been committed by a court, you must be informed of your right to leave the hospital, and whether the staff recommends further care and treatment.

If you do not need further care and treatment as an inpatient, you must be released.

The periodic review must be done when you are admitted, twice in the first six months, and at least once a year after that. (MGL Chapter 123, Section 4)

(9) Your funds: You have the right to manage and spend all your own funds unless (1) you are under guardianship or conservatorship, or (2) the hospital has evaluated you and found you are not capable of managing all or part of your funds.

An evaluation of your ability to handle your funds must

be held within 30 days of admission, within the next six months, and once a year after that, or when you request it. You have the right to bring an advocate and speak on your own behalf.

If you are incapable of handling all your money, there must be a decision as to how much you can manage, if any. If you decide to put this portion of your money in an account at the hospital you still have complete control over it.

You have the right to put any money over which you have control into a bank.

Any funds which you are not considered capable of handling will be managed by a staff person according to your needs and desires and may not be used for things the hospital is supposed to provide or for group purchases you will not benefit from.

You have the right to sign and manage all checks sent to you, unless you have been evaluated as incapable of doing so. The hospital may sign your incoming checks only if you have been evaluated as incapable of doing so, and must deposit them in your account. The hospital may not intercept your checks for the purpose of deducting charges for your care.

You have the right to a written accounting of your funds.

You have the right to get training in money management. (MGL Chapter 123, Section 23; 4 CHSR Part 14)

(10) Work: You have the right to be paid for any work you do in the hospital other than your own light housekeeping (making your bed, etc.). See Section II, Question 17 of this Guide for more information.

(11) Right to services: You have the right to medical, vocational, social and rehabilitation services as needed to enable you to return to the community. (4 CHSR 221.03) See Section III of this Guide on Vocational Rehabilitation.

(12) Education: You have the right to an education tailored to your individual needs if you are under 22. See Section IX(A) on Special Education. (MGL Chapter 123, Section 29; 4 CHSR 221.04; MGL Chapter 71B ; federal law P.L. 94-142, Education for All Handicapped Children Act)

(13) Medical care: You have a right to a physical examination at least once a year, and you have the right to consult your own physician. (MGL Chapter 123, Section 4, 23)

(14) Transfers: Except in emergencies, you have the right to be notified at least six days before being transferred to another hospital. If you are on a voluntary,or on a conditional voluntary and have signed a 3-day notice of intention to leave, you may not be transferred, except in emergencies. (MGL Chapter 123, Section 3)

(15) Religion: You have the right to practice your religion. You have the right to refuse to participate in religious activities. You have the right to a special diet for religious reasons.

(16) Sexuality, abortion, sterilization, marriage, raising children: See Section XV on Family Rights for information on your rights in these areas as a resident of a hospital.

(17) Privacy: You have a right against unreasonable, substantial or serious interference with your privacy, including the right not to be photographed without your consent. (MGL Chapter 214, Section 1A)

(18) Records: (This information applies only to state hospitals; private hospitals may follow different practices.) You have the right to see your treatment records unless the superintendent feels it is not in your best interest; in that case, you must be allowed to see as much as possible, along with a general description of the parts removed. You must be told why your request was denied, and you have the right to appeal.

To appeal, write to the Regional Service Administrator of your Department of Mental Health Region within 30 days; if dissatisfied with the results, you may appeal higher, first to the Commissioner of Mental Health, then to the Executive Office of Human Services in Massachusetts.

As long as your attorney has your permission he or she may see and copy all your records.

Your records are confidential and not open to the public except for:

(a) Your attorney if you give permission;
(b) A third party if you and the superintendent give permission;
(c) A court, upon a court order (you must be informed and you have the right to object); and
(d) Certain people if the superintendent gives permission:
  --Physicians treating you in medical or psychiatric emergencies
  --Staff who are or will be treating you
  --People involved in protecting your civil rights
  --People or agencies who need your records to help you get financial or legal assistance (insurance companies, trustees, etc.)

You have the right to appeal a decision about releasing your records (see above for process).

You have the right to know who has seen your records and why.

You have a right to accurate, complete and relevant records.

You may make a complaint about inaccurate or misleading records to the superintendent, who must make corrections or let you insert a written statement of your objections into the record. If you disagree with the superintendent's response to your complaint, you may appeal (see above).

(19) Research: You have the right to consent to or refuse to participate as a subject in a research project at a state hospital. If you are under guardianship, your guardian may consent for you unless you object. Research projects must be approved by the Department of Mental Health. (4 CHSR Parts 500-505)

(20) Charges for care: You have the right to have your income and expenses taken into account when the charges for your care and treatment in a Department of Mental Health facility are being computed. If your income (and your spouse's, if any) after certain deductions falls below a certain amount, you do not have to pay for your care and treatment.

Members of your family (other than your spouse), or your guardian, conservator or representative payee, if any, cannot be required to pay the cost of your care out of their own pocket.

You do not have to pay for your care and treatment if you are (1) between the ages of 3 and 22, or (2) over 18 and in a mental retardation facility and have been in the care of the Department of Mental Health for at least five years.

Your ability to pay must be reviewed periodically, and you have the right to appeal the amount of the charges. To appeal, write within 30 days of receiving notice of the amount, to the Regional Services Administrator of your Department of Mental Health region. Your appeal will be heard by a special appeal board.

You have a right to be notified of these rights upon admission, semi-annually, and upon request. (104 Code of Mass.Regs. 2.15; these are DMH regs. under a new number system)

(21) Discrimination: You have the right not to be discriminated against on account of race, creed, citizenship, national origin, sex, age, religion or handicap. (Section 504 of the Rehabilitation Act of 1973--see Section I of this Guide--prohibits handicap discrimination)

(22) Accessibility: If you walk with difficulty or use a wheelchair, you have the right to a barrier-free environment. See Section IV, Architectural Accessibility.

(23) Complaints, civil rights information: You have the right to seek assistance in exercising your civil rights from the hospital's civil rights officer. (4 CHSR 221.13)

If you think any of your rights have been violated, you have the right to seek legal assistance (with help of hospital staff if necessary).

You also have the right to make a complaint to the superintendent and ask for an investigation. Your complaint may be oral or in writing. You must be informed as to who will conduct the investigation, and that person must meet with you within 5 days. Within 7 more days, you must be notified as to the decision on your complaint and the reasons. If not satisfied, you may appeal the decision by notifying the person who made the decision, who will put the appeals process into motion. (DMH Guidelines for Investigation, December 12, 1977)

You have the right at any time to consult an attorney. For assistance finding an attorney, see your Civil Rights Officer or contact the Mental Health Legal Advisors Committee or one of the resources listed in Part Three, Section I (D).

(24) Medications: Your right to refuse medications has not yet been decided by the courts. It is clear you do not have the right to refuse if (1) you are under 16, (2) you are under guardianship, or (3) there is an emergency where your actions may seriously hurt yourself or someone else (see number (5) above on "Restraint and Seclusion").

If you are on a voluntary or conditional voluntary status, you have the right to refuse, but you may have to leave the hospital in order to exercise this right.

If you are on an involuntary commitment, your right to refuse is not clear. A current case, Rogers v. Okin, should clarify this right when it is decided. (Rogers v. Okin, Civil No. 75-1610-T, D. Mass., filed April 30, 1975).

D. YOUR RIGHTS AS A CLIENT IN A MENTAL RETARDATION PROGRAM

The following is a list of your rights as a client in a mental retardation program in Massachusetts, including state schools, community residences, cooperative apartments, and day programs. (Mass. General Laws Chapter 123, and Department of Mental Health Regulations Parts 300-342)

(1) Dignity and treatment:

You have a right to human dignity.

You have a right to humane and adequate care and treatment.

You have a right to the least restrictive and most normal, homelike setting possible, in such areas as: normal life experiences even if there is some risk; personal appearance, life style and possessions; social daily activities; privacy, including private living space.

(2) Discrimination:

You have the right not to be discriminated against because of race, creed, citizenship, national origin, sex, age, religion or handicap.

(3) Religion:

You have the right to practice a religion if you choose.

(4) Voting:

You have the right to vote unless you are under guardianship.

(5) Communications:

You have the right to access to a telephone for confidential calls.

You have the right to send and receive mail unopened and to have stationery and postage.

You have the right not to have your name, address or photograph used publicly without your consent.

You have the right to visits at any reasonable time from your attorney or advocate, doctor, clergyman or

family. You have the right to visits from other people unless you are ill or the visit would hurt you emotionally or physically. Time and place of visits may be restricted within reason. You (or your visitor) have the right to appeal if a visit is denied or restricted.

(6) Food and exercise:

You have a right to a sound diet.

You have a right to appropriate recreation and exercise.

You have a right to access to water and bathroom facilities.

(7) Possessions:

You have a right to have your own clothing and to keep and use your possessions.

You have a right to private storage space.

(8) Consent:

You have the right to consent to or refuse medical care, unless you are under 18 or under guardianship or not capable of giving informed consent. (Exceptions: in emergencies your consent is not required. For abortions and sterilization decisions, see Section XV on Family Rights. For shock treatment and psychosurgery, see (C) above, number (4).)

(9) Funds:

You have the right to manage and spend your funds, unless (1) you are under guardianship or conservatorship, or (2) the program has evaluated you and decided you are not capable of managing all or part of your funds. See (C) above, number (9).

(10) Restraint and seclusion:

You have the right not to be put in seclusion.

You can be restrained only in emergencies when necessary to prevent serious injury to yourself or others. Restraints must be ordered by the head of the program or a doctor, and can last only four hours unless the

order is renewed. If you are in mechanical restraints (ties, buckles, etc.) you must be checked every 15 minutes and given a chance to move every two hours. Chemical restraints (drugs) can only by authorized by a doctor. The head of your program may have you transferred to another program more suitable for you.

(11) Medications:

You have the right not to be given medications to control your behavior in quantities that interfere with your learning or as punishment, or for the convenience of staff or as a substitute for programming. Except in emergencies when necessary to prevent serious injury to yourself or others, medications to control your behavior may be given only if prescribed in your treatment plan.

(12) Labor:

You have the right to be paid for any work you do other than your own housekeeping (such as making your bed).

(13) Records:

You have the right to see your records. Your attorney or advocate or other people may see your records if you or your legal guardian gives permission. Otherwise your records are private and closed to the public except (1) if a court issues an order (you have a right to object), or (2) if the head of your program approves one of the following types of requests:

--program staff
--the Human Rights Committee and similar people authorized by the Department of Mental Health to monitor your care and civil rights
--authorized researchers
--people such as insurance companies or trustees through whom you might get financial or legal help
--doctors treating you in an emergency

You have the right to know who has seen your records and why, and to challenge a decision by the head of your program to let someone see your records. To challenge, make a complaint to the director of your Department of Mental Health Area Office; the next step higher would be the Regional Services Administrator of the Department of Mental Health Regional Office.

If you think your record is wrong or misleading you have the right to make a complaint to the head of your program,

who must correct the record or insert your complaint in your record. You have the right to challenge this decision (see paragraph above).

(14) Competence:

You have the right not to be treated as incompetent to manage your affairs, to make contracts, to have a drivers license or professional license, to make a will or to vote just because you are in a mental retardation program. Once you turn 18, you have the right to manage your affairs unless a probate court rules otherwise.

If you cannot manage your own affairs, you have the right to have your program find someone to assist you as a guardian, conservator, advocate, etc. (See Section XIII on Competence.)

(15) Research:

You or your legal guardian has the right to decide if you will participate in any research projects.

(16) Behavior modification:

You or your legal guardian has the right to decide if you will participate in a behavior modification program using aversive or deprivation techniques.

(17) Programming:

In residential programs you have the right to training as needed in maintenance of your living area or household, meal preparation, grooming, hygiene, clothing, health and dental self-care, use of public transportation, use of phone and mail, money management, fire safety, and so on.

In residential programs you have the right to counseling, recreation, religious activities, medical and dental care, and transportation to and from planned activities and programs. Your program may either provide or arrange for these services.

(18) Individual Service Plans

You have the right to participate in writing your individual service plan, which lists your goals and the services to be provided by your program to help you achieve these goals.

(19) Mistreatment:

You have the right to be protected from mistreatment such as: corporal punishment, mental or verbal abuse, transfer for punitive reasons, violations of your rights, retaliation for reporting a violation of clients' rights.

(20) Complaints:

You have a right to make a confidential complaint to the head of your program or to the director of your Department of Mental Health Area Office or Regional Office, about any violations of your rights or illegal or dangerous actions. Within 5 days a meeting must be held with you and the person assigned to investigate your complaint. You have a right to a decision on your complaint within approximately 12 days of making your complaint, and you must be informed of your right to appeal the decision. (Department of Mental Health Guidelines for Investigation, Dec. 12, 1977)

You also have the right to take any complaints about your program to its Human Rights Committee, which must investigate the complaint and recommend a solution.

You have the right to have your program's Human Rights Officer help you find legal assistance if needed.

(21) Accessibility:

You have the right to a barrier-free program if you have trouble walking or use a wheelchair.

XVII. CRIMINAL MATTERS

A. YOUR RIGHTS IF CHARGED WITH A CRIME

1. What is an arrest?

An arrest is when police take you into custody (usually the police station) to answer for a crime. They do not necessarily have to use the word "arrest" to put you under arrest.

Police have the right to stop or question you or search you for weapons without arresting you. But when they are finished they must either arrest you or let you go.

Police also have the right to take you to a mental hospital if they think you are mentally ill and dangerous to yourself or others (see Section XVI on Rights in Institutions). This is not an arrest. This can be done only in an emergency when a physician is not available.

2. May anyone besides a police officer detain me against my will?

A merchant or his employees may detain you for questioning on or near the premises if he has probable cause to believe you are shoplifting or stealing from other customers.

Mental hospitals have certain rights to detain you against your will but this is not in connection with a crime. (See Section XVI.)

3. What is a warrant?

A warrant for arrest is an order from a court charging you with a crime and directing the police to pick you up.

A search warrant is an order from a court authorizing a search of a specified area (your home, your car, etc.) for a specified purpose (weapon, illicit drugs, etc.). At the time of the search, you must be given a copy of the warrant.

4. May I be arrested without a warrant?

Yes, if the police officer has reason to believe a crime has been or is being committed and you are responsible, you may be arrested without a warrant.

5. May my home be searched or entered without a warrant?

The police may not enter the place where you live unless invited by you or someone else who lives there, or unless they have obtained a search warrant for that purpose, or unless they are chasing someone from the scene of a crime, or are at that address to serve a warrant for your arrest. They are entitled to search only the areas specified in the search warrant, or, if placing you under arrest, only the area within your immediate reach.

6. What should I do if I am arrested? What are my rights?

(1) Never resist or run away. You may get hurt or you may make the charges worse.

(2) You have the right to remain silent, although it is advisable to give your name and address. Do not confess to anything. Anything you say may be held against you so say as little as possible until you have consulted an attorney.

(3) You have a right to know the names of the police officers dealing with you. If a person in plain clothes claims to be a police officer, ask for identification.

(4) You have a right to know the crime for which you are being arrested.

(5) You have a right to use a telephone for one hour soon after being brought to the police station to call a lawyer, friend, relative, advocate, bail company, etc.

7. What are my rights if I am questioned?

You have the right to remain silent, to have an attorney present, and to talk to an attorney before answering any

questions. Do not sign any statements or confessions without consulting an attorney.

8. What happens after I am taken to the police station?

You may be questioned. The police may decide to drop the charges, in which case you will be released. Or you may be booked by the police on tentative charges, in which case you should be taken before the court at the earliest possible time to be formally charged (arraigned). If arrested during the day, you should be brought to court that day; if arrested at night, you may be held at the police station until court opens in the morning.

At the arraignment, the judge will decide what formal charges to make against you, if any; whether you are entitled to have a lawyer appointed and paid for by the court; and whether you should be released on bail or personal recognizance until your trial. (See Question 9.) You will not have a lawyer at the arraignment unless you have found one yourself.

For serious crimes, the procedures are more complicated than explained here. Consult your attorney.

9. What is bail? What is personal recognizance?

Bail is a sum of money which is demanded by the court to be deposited, to guarantee that you will return on the date set for your trial. Personal recognizance means, in effect, giving your word to return on the trial date.

10. How do I know if I am entitled to a free lawyer?

After you have been arrested and brought to court for the arraignment, a probation officer will talk with you. He will inform the judge whether or not he believes you to be entitled to have an attorney appointed to represent you. The judge may ask you some questions about how much money you have, and then will decide. If he/she appoints an attorney, the probation officer will give you the attorney's name, address and phone number. If there is a question of bail being set, you are entitled to have counsel appointed to represent you on that question.

If you have a seizure because of being denied your medications, consult an attorney about the possibility of suing. (See Part Three, Section I (D) for list of legal resources.)

14. What happens to someone who is arrested and is not capable of understanding his/her rights?

It is extremely important for a person who is arrested to say as little as possible before consulting with a lawyer. This is particularly important for a person who is not capable of understanding his/her rights, in order to avoid making damaging confessions, whether true or false.

Everyone, in fact, who is arrested should speak with an attorney before making any statements to the police. Many people who are truly innocent of any crime feel that they do not need a lawyer if they are arrested. The criminal law is a very complex matter, and an attorney can do the best job for you when involved in the process from the beginning.

If you are not capable of understanding the legal process and assisting your attorney in your defense (incompetent to stand trial), your trial will be postponed until you are more capable. This decision will be based on results of an examination by a doctor at the court or a nearby mental hospital. This is intended to assure you a fair chance to defend yourself.

If you continue to be incapable, the charges will eventually be dismissed. In the meantime, you may be released, or under certain conditions you may be sent to a mental hospital for treatment or observation. The process has many steps not mentioned here. Consult your lawyer or the Mental Health Legal Advisors Committee for details. (See Section XVI (B).)

15. What happens if a person commits a crime but is too mentally disabled at the time to realize it?

The judge may find such a person "not guilty by reason of a mental disability." To reach that decision, the judge may order the person examined at a hospital for a period of up to 40 days, and have the doctor submit his opinion to the court.

11. When is the trial held?

At your arraignment, the judge will set a date for trial. It is up to you to confer with your attorney before that date, and to provide him with the names and addresses of any people who may be able to testify on your behalf. The trial would ordinarily be held within a month or so of your arrest.

B. SPECIAL ISSUES FOR PEOPLE WITH DISABILITIES

12. What should I do if I feel I am falsely arrested? I have cerebral palsy/epilepsy and have been arrested several times because the police think I am acting strange.

Unfortunately, this happens all too often to those of us who look or act different because of disabilities. Try to explain your disability and why it makes you act that way, but do not resist or act belligerent or hostile. Look as calm as possible. It is advisable to wear a medical identification bracelet to provide some back-up for your story, and to carry a card in your wallet with the names and phone numbers of your doctor or clinic and the local cerebral palsy or epilepsy organization. Try to get the police to call these people for verification.

Under certain conditions you can sue for false arrest, but it is difficult and--if you lose--costly. See Part Three, Section I (D) for a list of legal resources.

13. I have epilepsy. How can I get the police/jail to give me my seizure medication? They don't believe me when I say I need it.

Again, it is advisable to have a medical identification bracelet or tag and to carry a card stating your doctor's name and phone number, and the name and number of the local epilepsy organization (or the national organization if you are traveling). You have a clear right to these and any other prescribed medications. Contact your lawyer for further assistance.

PART THREE:

Resources

C. IF YOU ARE THE VICTIM OF A CRIME

16. What should I do if I am the victim of a crime?

If you believe you are the victim of a crime, the local police should be notified immediately. It will be very helpful to the police if you have the names of all persons involved, or their descriptions, the time and date of such an incident, and a well-organized account of what happened. In most cases, you don't need a lawyer, because the police and the District Attorney will represent your interests. If you have difficulty making people understand, you may want to ask a friend or an attorney to accompany you to the police station. If the police tell you they don't want to prosecute the matter, you have the right to apply for a complaint at the district court. Before doing this, you should ask a lawyer for advice.

If you are injured as a result of a violent crime committed against you, you may have the right to be repaid for the costs of medical care or other losses. You should seek the help of an attorney in pursuing this matter.

I. PEOPLE AND ORGANIZATIONS

A. AGENCIES

DEPARTMENT OF MENTAL HEALTH

Region I:

Region I Office
Northampton State Hospital
Prince Street
Northampton, MA 01060
(413) 584-7781

Berkshire County Area Office
Madonna Hall
333 East St.
Pittsfield, MA 01201
(413) 447-7381

Franklin-Hampshire Area Office
Northampton State Hospital
Northampton, MA 01060
(413) 584-1644, x303,338

Holyoke-Chicopee Area Office
541 South Street
Holyoke 01040
(413) 538-7427

Springfield Area Office
265 State Street
Springfield 01103
(413) 732-4447

Westfield Area Office
Western Mass. Hospital
91 East Mountain Road
Westfield 01085
(413) 568-9221

Region II:

Region II Office
Glavin Regional Center
214 Lake St.
Shrewsbury 01545
(617)727-8542,844-9111

Fitchburg Area Office
Fitchburg Mental Health Center
Nichols Road
Fitchburg 01420
(617) 343-6966

Region II (continued):

Gardner-Athol Area Office
Glavin Regional Center
214 Lake St.
Shrewsbury 01545
(617) 727-8542, 844-9111

Blackstone Valley Area Office
2 South Main St.
Uxbridge 01569
(617) 278-2456

South Central Mass. Area Office
Harrington Memorial Hospital
Medical Arts Building
100 South St.
Southbridge 01550
(617)765-9771, x353

Worcester Area Office
Worcester State Hospital
305 Belmont St.
Worcester 01604
(617) 752-4681

Region III:

Region III Office
Danvers State Hospital
P.O. Box 100
Hathorne 01937
(617) 727-7024 , 777-1990

Lowell Area Office
Solomon Mental Health Center
391 Varnum Ave.
Lowell 01854
(617)454-8851

Lawrence Area Office
Lawrence General Hospital
One General St.
Lawrence 01840
(617)683-4000, 685-3751

DEPARTMENT OF MENTAL HEALTH, continued

Region III, continued

Haverhill/Newburyport Area Office
1 Main St.
Merrimac 01860
(617) 352-6069, 774-8035

Cape Ann Area Office
N.E. Divers Building
16 Tozer Road
Beverly 01915
(617) 927-6429, 768-6088

Danvers/Salem Area Office
Danvers State Hospital
P.O. Box 100
Hathorne 01937
(617) 774-5000 x219, 241

Lynn Area Office
92-94 Walnut St.
Saugus 01906
(617) 233-3047, 3048, 727-7054

Eastern Middlesex Area Office
J.T. Berry Rehab. Center
Lowell Rd.
No. Reading 01864
(617) 727-8737, 664-5152

Tri-City Area Office
429 Main St.
Malden 02148
(617) 727-6717, 321-4120, 4121

Region IV-A:

Region IV-A Office
Metropolitan State Hospital
475 Trapelo Road
Waltham, 02154
(617) 894-4300 x 270

Concord Area Office
Trinitarian Congreational Church
54 Walden St.
Concord 01742
(617) 369-8427

Mystic Valley Area Office
Metropolitan State Hospital
475 Trapelo Rd.
Waltham 02154
(617) 894-4300 x 393

Region IV-A, continued

Metropolitan-Beaverbrook
Area Office
Metropolitan State Hosp.
475 Trapelo Rd.
Waltham 02154
894-4300

Cambridge-Somerville Area
Office
Cambridge-Somerville Mental
Health & Retardation Ctr.
12 Maple Ave.
Cambridge, 02139
(617) 491-0600

Region IV B:

Region IV-B Office
Medfield State Hosp.
45 Hospital Rd.
Medfield 02042
(617) 359-7312 x 281

Marlboro-Westboro Area Office
Westboro State Hospital
P.O. Box 288
Westboro 01581
(617) 366-4401, 727-5508

Greater Framingham Area
Office
Cushing Hospital
P.O. Box 190
Framingham 01701
(617) 873-9753

Newton-Wellesley-Weston
Area Office
1001 Watertown St.
W. Newton 02165
(617) 969-3360, 727-3809

Medfield-Norwood Area Office
Medfield State Hospital
Medfield 02052
(617) 359-7312

South Shore West Area Office
330 Edge Hill Rd.
E. Milton 02186
(617) 698-2125

DEPARTMENT OF MENTAL HEALTH, continued

Region IV-B, continued:

South Shore East Area Office
6 Nevin Rd.
South Weymouth 02190
(617) 331-0927, 727-3904

Region V:

Region V Office
Brockton Multi-Service Center
165 Quincy St.
Brockton 02401
(617) 58 4-0800 x 154

Attleboro Area Office
Attleboro Mental Health Ctr.
219 Park St.
Attleboro 02703
(617) 226-1660

Brockton Area Office
Brockton Multi-Service Center
165 Quincy St.
Brockton 02402
(617) 584-0800

Plymouth Area Office
15 Main St. Ext.
Plymouth 02360
(617) 747-1500

Taunton Area Office
P.O. Box 350
Taunton02780
(617) 823-6374

Fall River Area Office
Corrigan Mental Health Ctr.
49 Hillside St.
Fall Riber 02720
(617) 678-2901

New Bedford Area Office
81 Hawthorne St.
New Bedford 02740
(617) 996-5455

Cape Cod & Islands Area Off.
P.O. Box 1462
Orleans 02653
(617) 255-7877, 7878

Region VI:

Region VI Area Office
Lindemann Mental Helath Ctr.
Government Center Plaza
Boston 02114
(617) 727-5795

Dorchester Area Office
Boston State Hospital
591 Morton St.
Dorchester
436-6000

Massachusetts Mental Health Ctr.
Area Office
Mass. Mental Health Ctr.
74 Fenwood Rd.
Boston 02115
(617) 734-1300

Boston University Area Office
Solomon Carter Fuller Mental
Health Ctr.
85 E. Newton St.
Boston 02118
(617) 266-8800 x435

Tufts Mental Health Center Area
Office
260 Tremont St. Box 1007
Boston 02116
(617) 956-5750

Harbor Area Office
Lindemann Mental Health Ctr.
Government Center Plaza
Boston 02114
(617) 727-7115

West-Ros-Park Area Office
26 Central Ave.
Hyde Park
(617) 364-5200

MASSACHUSETTS REHABILITATION COMMISSION:

Administrative Office:

296 Boylston St.
Boston 02116
(617) 727-2183

Boston Region:

Regional Office
80 Boylston St.
Boston 02116
(617) 727-8942, 426-5835

Brookline Area Office
320 Washington St.
Brookline 02146
(617) 739-9080

Government Center Area Office
141 Milk St.
Boston 02109
(617) 727-5687, 357-8137

Mattapan Area Office
591 Morton St.
Dorchester 02124
(617) 288-4600

Roxbury Area Office
55 Dimock St.
Roxbury 02119
(617) 442-8510

Tufts Area Office
141 Milk St.
Boston 02109
(617) 482-1780, 357-8137

Lakeville Region:

Regional Office
Human Services Center
Lakeville 02346
(617) 947-7646

Brockton Area Office
121 Main St.
Brockton 02401
(617) 583-1530

Fall River Area Office
10 Purchase St.
Fall River 02720
(617) 678-9041

Lakeville Region, continued

Hyannis Area Office
147 Falmouth Rd.
Hyannis
(617) 775-6131

New Bedford Area Office
558 Pleasant St.
New Bedford 02740
(617) 993-6256

Taunton Area Office
30 Taunton Green
Taunton 02780
(617) 823-8141

Plymouth Area Office
Human Services Center
Lakeville 02346
(617) 727-7124, 947-7680

Malden Region:

Regional Office
33 Dartmouth St.
Malden
(617) 324-9188

Lawrence Area Office
46 Amesbury St.
Lawrence 01840
(617) 685-1731

Lowell Area Office
97 Central St.
Lowell 01852
(617) 457-7544

Lynn Area Office
31-33 Exchange St.
Lynn 01901
(617) 593-6604

Malden Area Office
33 Dartmouth St.
Malden 02148
(617) 324-7160

Metropolitan Region:

Regional Office
230 Boylston St.
Chestnut Hill 02167
(617) 527-2990

MASSACHUSETTS REHABILITATION COMMISSION, continued

Metropolitan Region, continued:

Cambridge Area Office
2464 Mass. Avenue
Cambridge 02140
(617) 727-6679, 492-0360

Metropolitan State Hospital Unit
475 Trapelo Rd.
Waltham 02154
(617) 894-1341

Concord Area Office
336 Baker St.
West Concord 01742
(617) 727-3658, 369-1963

Natick Area Office
83 Speen St.
Natick 01760
(617) 727-6208, 655-7500

Norwood Area Office
511 Washington St.
Norwood 02062
(617) 769-5950

Quincy Area Office
1431 Hancock St.
Quincy 02169
(617) 471-1600

Springfield Region:

Regional Office
16 Fort St.
Springfield 01103
(413) 781-7420

Greenfield Area Office
324 Main St.
Greenfield 01301
(413) 774-2326

Holyoke Area Office
560 Dwight St.
Holyoke 01040
(413) 536-8200

North Adams Area Office
85 Main St.
North Adams 02147
(413) 663-7065

Springfield Region, continued:

Pittsfield Area Office
6 Clinton Ave.
Pittsfield 01201
(413) 499-2720

Springfield Area Office
16 Fort St.
Springfield 01103
(413) 736-7296

Worcester Region:

Regional Office
10 Faraday St.
Worcester 01605
(617) 791-3355

Fitchburg Area Office
76 Summer St.
Fitchburg 01410
(617) 727-3774, 345-1713

Milford Area Office
3 Fayette St.
Milford 01757
(617) 478-0700

Southbrodge Area Office
922 West Main St.
Southbridge 01550
(617) 765-5968

Worcester Area City Office
75B Grove St.
Worcester 01605
(617) 754-1757

Worcester Area Suburban Office
110 Lancaster St.
Worcester 01609
(617) 791-6301

Specialty offices:

Severe Physical Disability Off.
Room 645
80 Boylston St.
Boston 02116
(617) 426-7250, 727-6658

Rehabilitation Services for Deaf
80 Boylston St.
Boston 02116
(617) 727-1559, 727-7459, 426-7224

SOCIAL SECURITY ADMINISTRATION OFFICES:

Attleboro 02703
7 No. Main St., Room 210
222-0273

Boston 02116
31 St. James Ave.
423-3700

Brookline 02146
2001 Beacon St.
423-3700

Brockton 02401
365 Westgate Dr.
588-7835

Cambridge 02138
625 Mt. Auburn St.
423-3700

Chelsea 02150
297 Broadway
423-3700

Dorchester 02122
1305 Dorchester Ave.
423-3700

Fall River 2720
400 No. Main St.
676-1981

Falmouth
366A Clifford St.
548-8150

Fitchburg 01420
145 Main St.
345-4183

Framingham 01701
49 Park St.
875-6191

Greenfield 01301
277 Main St.
(413) 774-2911

Hanover 02339
198 Columbia Rd
826-6383

Haverhill 01830
367 Main St.
375-5619

Holyoke 01040
330 Appleton St.
(413) 534-7361

Hyannis 02601
139 Falmouth St.
775-7501

Lawrence 01840
488 Essex St.
686-6171

Lowell 01852
21 Palmer St.
454-9151

Lynn 01901
140 Union St.
581-7460

Malden 02148
24 Exchange St.
321-2400

New Bedford 02740
749 Purchase St.
999-8101

North Adams 01247
106 Main St.
(413) 663-5327

Norwood 02062
10 Cottage St.
762-8510

Pittsfield 01201
20 Elm St.
(413) 445-4582

Quincy 02169
191 Parkingway
423-3700

Roslindale 02131
1 Belgrade Ave.
423-3700

Roxbury 02119
2414 Washington St.
423-3700

Salem 01970
84 Highland Ave.
744-2366

Springfield 01103
145 State Street
785-1625

Taunton 02780
19 Court St.
823-5116

Waltham 02154
24 Crescent St.
894-4320, 894-4890

Worcester 01608
340 Main St.
791-2251

Ombudsman:
223-0402 (Boston)

Hearings & Appeals
223-5275 (Boston)

OFFICE FOR CHILDREN

Region I:

Regional Office
1618 Main St.
Springfield 01103
(413) 733-4161

Berkshire Area
54 Wendall Ave.
Pittsfield 01201
(413) 499-4492

Franklin Area
278 Main St.
Greenfield 01301
(413) 774-5311

Hampshire Area
Vernon Street School
Vernon St.
Northampton 01060
(413) 584-7970

Holyoke-Chicopee
276 High St.
Holyoke 01040
(413) 538-9034

Springfield Area
1618 Main St.
Springfield 01103
(413) 736-0321

Westfield Area
42 Arnold St.
Westfield 01085
(413) 568-3342

Region II:

Regional Office
75A Grove St.
Worcester 01605
791-3136, 727-8773

Greater Worcester
75A Grove St.
Worcester 01605
757-8392

Region II, continued:

No. Worcester
66 Parker St.
Gardner 01440
632-9179

No. Central
515 Main St.
Fitchburg
534-0280, 342-8769

Blackstone Valley
189 Main St.
Milford 01757
473-3291, 478-3233

South Central
112 Hamilton St.
Southbridge 01550
765-9175, 885-5374

Region III:

Regional Office
Metropolitan State Hosp.
475 Trapelo Rd.
Waltham 02154
891-7021, 727-1429,
727-7679

Cambridge/Somerville
Somerville Multi-Service Ctr.
1 Summer St.
Somerville 02143
623-5096

Metropolitan/Beaver Brook
750 Main St.
Waltham 02154
891-8558

Concord-Assabet
336 Baker Ave.
Concord 01742
369-9591

Mystic Valley
c/o 1st Congregational Church
21 Church St.
Winchester 01890
729-4350

Region III, contd.:

Lowell
224 Worthen St.
Lowell 01852
459-2566

Region IV:

Regional Office
Gregory St.
Middleton 01949
774-2396,727-8787

Cape Ann
705 Hale St.
Beverly 01915
927-5446

Lynn
1 Market St.
Lynn 01902
581-7677, 581-7683

Tri City
484 Broadway
Everett 02149
389-5075,389-2454

Heritage
9 Crombie St.
Salem 01970
745-9090,744-1853

Eastern Middlesex
7 Lincoln St.
Wakefield 01880
245-4239

Haverhill
69 Summer St.
Haverhill 01830
372-0161,346-9617

Lawrence
10 Amesbury St.
Lawrence, 01840
685-0262

Region V:

Regional Office
1001 Watertown St.
W. Newton 02165
727-2532

OFFICE FOR CHILDREN, continued:

Region V, continued:

South Middlesex
125 Irving St.
Framingham 01701
875-5264

Greater Marlboro
223 Pleasant St.
Marlboro 01752
481-3476

South Shore-Quincy
1354 Hancock St.
Quincy 02169
472-4224

Medfield-Norwood South Norfolk
5 Walpole St.
Norwood 02062
762-0717, 668-7262

West Suburban
474 Centre St.
Newton 02158
965-9810,965-9811

Coastline
195 Whiting St.
Hingham 02043
749-2719

Region VI:

Regional Office
120 Boylston St.
Boston 02116
727-8898

South District
592 Hyde Park Ave.
Roslindale 02131
323-0955

Lower Roxbury
682 Tremont St.
Boston 02116
262-2540
72 Marginal St.
Capitol

E. Boston 02128
567-6583,567-6586

Region VI, continued:

Chelsea, Revere, Winthrop
72 Marginal St.
East Boston 02128
567-6583,567-6586

Bos-Line
824 Huntington Ave.
Boston 02155
738-4518

Bayside
990 Dorchester Ave.
Dorchester 02125
288-6600

Region VII:

Regional Office
Lakeville Hospital
Lakeville 02346
947-1231 x 233

Plymouth
130 Court St.
Plymouth 02360
746-5101, 727-8945

Brockton
47 High St.
Brockton 0240
583-3464,588-6428,727-8363

Cape and the Islands
298 Main St.
Hyannis 02601
771-2151,727-7723

Attleboro
7 N. Main St.
Attleb oro 02703
226-2336,727-8948

Taunton
5 Main St.
Taunton 02780
823-7200,727-8548

New Bedford
488 Pleasant St.
New Bedford 02740
997-4531,727-8974

Fall River
243 Forest St.
Fall River 02723
675-0588,727-8469

DEPARTMENT OF EDUCATION

Division of Special Education
182 Tremont Street
Boston 02111
727-5770,5876

Bureau of Special Education Appeals
Div. of Special Educ.
178 Tremont St.
Boston 02111
727-8534

Greater Boston Regional Education Ctr.
54 Rindge Ave. Extens.
Cambridge 02140
547-7472

Northeast Regional Ed. Center
1551 Osgood St.
N. Andover 01815
687-3351

Southeast Reg.Ed.Ctr.
Lakeville State Hosp.
Route 105
Lakeville
947-3240

Central Mass. Reg.Ed. Center
Beaman St.,Rte. 140
W. Boylston 01583
835-6267

Springfield Reg.Ed.Ctr.
2083 Roosevelt Ave.
Springfield 01104
(413)734-2167

Pittsfield Reg.Ed.Ctr.
188 South St.
Pittsfield 01201
(413)499-0745

PROGRAMS FOR THE ELDERLY

Dept. of Elder Affairs
110 Tremont St.
727-7750

PROGRAMS FOR THE ELDERLY: HOME CARE CORPORATIONS AND AREA AGENCIES ON AGING

Minuteman Home Care Corp.
365 Waltham St.
Lexington 02173
862-6200, 263-8720

Berkshire Home Care Corp.
246 North St.
Pittsfield 01201
(413) 499-1353

S.W. Boston Senior Services, Inc.
4258 Washington St.
Roslin dale 02131
325-6565

Area II Home Care for Senior Citizens
236 Huntington Ave.
Boston 02115
266-1672

Senior Home Care Services, Boston III, Inc.
230 Boylston St.
Boston 02116
267-7575

Old Colony Elderly Services, Inc.
231 Main St.
Brockton 02401
584-1561

Elder Services of Cape Cod & the Islands
146 Main St.
Hyannis 02601
771-4248

HOME CARE CORPORATIONS AND AREA AGENCIES ON AGING, continued

Chelsea/Revere/Winthrop Home Care Center, Inc.
385 Broadway, PO Box 189
Revere 02151
284- 8375

Bristol County Home Care for Elderly, Inc.
178 Pine St.
Fall River 02720
675-2101

Franklin County Home Care Corp.
Central St.
Turners Falls 01376
(413) 774-2994

Senior Home Care Services, Inc.
94 Main St.
Gloucester 01930
281-1750

Greater Lynn Senior Services, Inc.
25 Exchange St.
Lynn 01902
599-0110

Highland Valley Elder Service
42 Gothic St.
Northampton 01060
(413) 586-3130

Holyoke/Chicopee Regional Home Care Corp., Inc.
198 High St.
Holyoke 01040
(413) 538-9020

Elder Services of Merrimack Valley, Inc.
420 Common St.
Lawrence 01840
683-7747

Montachusett Home Care Corp., Inc.
124 Main St.
Fitchburg 01420
345-7312

HOME CARE CORPS. AND AREA AGENCIES ON AGING, contd.

Mystic Valley Elder Home Care Ctr,
341A Forest St.
Malden 02148
324- 7705

Somerville/Cambridge Home Care Corp.
249 Elm St.
Somerville 02144
628-2601

Home Care Corp.of Springfield, Inc.
1414 State St.
Springfield 01109
(413)781-8800

Elder Home Care Services of Worcester, Inc.
67 Highland St.
Worcester 01609
756-1545

North Shore Elder Services, Inc.
North Shore Shopping Center
Peabody 01960
532-0330

Elder Home Care Services of So. Worcester County

Main St.
Southbridge 01550
764- 2501

Commission on Affairs of Elderly
1 City Hall Square
Boston 02201
725- 4366

Region II Area Agency on Aging
697 Main St.
Holden 01520
829-5364

PROGRAMS FOR THE ELDERLY, continued:

West Suburban Elder Service, Inc.
51 Spring St.
Watertown, MA 02171
926-3311

Baypath Senior Citizens Services, Inc.
5 Edgell Rd.
Framingham 01701
620-0840

King Philip Elder Services, Inc.
962 Main St.
Walpole 02081
668-1982

South Shore Home Care Services, Inc.
c/o Hersey House
229 North St.
Hinham 02043
749-6832

Coastline Elderly Services, Inc.
13 Welby Rd.
New Bedford 02745
998-2016

MASS. COMMISSION FOR THE BLIND

110 Tremont St.
Boston 02108
727-5550; 1-800-392-6450

1200 Main St.
Springfield 01103
(413) 781-1290

7 Hills Plaza
90 Madison St.
Worcester 01608

REGIONAL TRANSIT AUTHORITIES

Berkshire Regional Transit Authority
86 North St. - Room 214
Pittsfield 01201
(413) 499-2782

Brockton Transportation Auth.
106 Main St.
Brockton 02401
588-2240

Cape Ann Transp. Auth.
P.O. Box 511 (16 Parker St.)
Gloucester 01930
283-4968

Lowell Regional Transit Auth.
10 Kearney Square
Lowell 01852
459-0164

Pioneer Valley Transit Auth.
31 Elm St. - Room 422
Springfield 01103
732-6248

Merrimack Valley Reg. Transit Auth.
4 Summer St., Room 7
Haverhill 01830
372-4686

Southeastern Reg. Transit Auth.
1213 Purchase St.
New Bedford 02740
997-6767

Worcester Reg. Transit Auth.
32 Franklin St.
Worcester 01608
791-2389

Cape Cod Reg. Transit Auth.
1st District Court House
Barnstable 02630
362-2511, x.477

Greenfield & Montague Transportation Auth.
382 Deerfield St.
Greenfield 01301
(413) 773-9478

Greater Attleboro Taunton Regional Auth.
56 So. Main
Attleboro 02703; 226-1101

B. PRIVATE ORGANIZATIONS

Mass. Association for the Blind
200 Ivy St.
Brookline 02146
738-5110; 1-800-682-9230

51 Harvard Street
Worcester 01608
791-8237

3 Locust St.
Springfield 01108
(413) 734-7343

New England Spinal Cord Injury Found'n
369 Elliot St.
Newton Upper Falls 02164
964-0521

Easter Seal Society for Crippled Children and Adults
37 Harvard Street
Worcester 01608
757-2756
Regional offices:
14 Somerset St., Boston 02108; 277-9605
1 Railroad St., Andover 01810 475-1477
856 Church St., New Bedford 02745 998-3536
145 State St. Springfield 413-732-2548
30 Highland St., Worcester 01608 757-2891

Stavros Foundation (referral, resource and outreach to mobility-impaired individuals)
691 S. East St.
Amherst
(413) 253-2453

Boston Center for Independent Living
50 Edgerly Road (see description, Section VII-B, Question 4 and 6)
Boston 02115
536-2187

Worcester Area Transitional Housing
507 Main St. (see description, Section VII-B, Questions 4 and 6)
Worcester
757-9435

Southeastern Mass. Independent Living Program
c/o Mass. Rehabilitation Commn. Regional Office
Human Services Center
Lakeville (see description, Section VII-B, Questions 4 and 6)
947-7646

PRIVATE ORGANIZATIONS, continued

Mass. Association for Mental Health
1 Walnut St.
Boston 02108
742-7452

Association for Mentally Ill Children
120 Boylston St.
Boston,
482-7362

Epilepsy Society of Mass., Inc.
3 Arlington St.
Boston 02116
267-4341

Epilepsy Society of Southeastern Mass.
c/o St. Luke's Hospital
Box 3003
New Bedford 02741

Epilepsy Society of Cape Cod
c/o William Scanlon, Esq.
7 Eagle Loop
Yarmouthtown 02675

Epilepsy Association of Merrimack Valley
11 Lawrence St., Room 412
Lawrence 01840

Epilepsy Association of Western Massachusetts
718 State St.
Springfield 01109

Epilepsy Society of Worcester County
Epilepsy Referral Center
25 Winthrop St.
Worcester 01604

Mass. Council of Organizations of the Handicapped
c/o Maureen Winn
10 West Chardon Rd.
Winchester 01890

Massachusetts Association of Paraplegics
P.O. Box 48
Bedford 01730

Federation for Children with Special Needs
Suite 338
120 Boylston St.
Boston 02116
482-2915

PRIVATE ORGANIZATIONS, continued

Massachusetts Association for Retarded Citizens
381 Elliot St.
Newton Upper Falls 02164 (has many local chapters and citizen
965-5320 advocacy programs; call for addresses)

United Cerebral Palsy of the North Shore
29 Lowell St.
Peabody 01960
01960

United Cerebral Palsy Association of Western Mass.
[illegible]2 Sumner Ave.
Springfield 01108
(413) 788-9695

United Cerebral Palsy Association of Metropolitan Boston
358 Chestnut Hill Ave.
Boston 02146
232-9850

Cerebral Palsy of Greater Boston
30 Wesley St.
Newton
527-3587

United Cerebral Palsy of Central Mass.
104 Chandler St.
Worcester 01609
756-4186

United Cerebral Palsy of Southeastern Mass.
199 Warren Ave.
Brockton 02401
583-3335

United Cerebral Palsy of Cape and The Islands Committee
P.O. Box 922
486 Main St.
Hyannis 02601
771-5010

C. COURTS

PROBATE COURTS:

Barnstable
Main St., Barnstable 02630
362-2511, ext. 211

Berkshire
76 East St., Pittsfield 01201
(413) 442-6941

Bristol
11 Court St., Taunton 02780
824-4004

Dukes
Edgartown 02539
627-4703

Essex
52 Federal St., Salem 01970
744-1240

Franklin
Main St., Greenfield 01301
(413) 774-4969

Hampden
50 State St., Springfield 01103
(413) 781-8100

Hampshire
Merrick Lane, Northampton 01060
(413) 584-7494

Middlesex
Cambridge St., East Cambridge 02141
494-4545

Nantucket
Broad St., P.O. Box 1145, Nantucket 02554
228-2669

Norfolk
649 High St., Dedham 02026
326-7200

Plymouth
N. Russell St., Plymouth 02360
747-0500

Suffolk
Old Courthouse, Pemberton Square
Boston 02108
725-8300

Worcester
Court House, Worcester 01608
756-2441, ext. 216

SUPERIOR COURTS:

Barnstable County
Court House Building, Main Street
Barnstable 02630
362-2511 ext. 301

Berkshire County
Court House, 76 East St.
Pittsfield 01201
(413) 442-5877

Bristol County
Court House, 9 Court Street
Taunton 02780
823-6588
New Bedford 996-2051
Fall River 672-4464

Dukes County
Court House, Main St.
Edgartown 02539
627-4668

Essex County
Superior Court House, Federal St.
Salem 01979
744-3300, 744-1240

Superior Court House
40 Appleton St.
Lawrence 01840
687-7463

Franklin County
Court House
Main St.
Greenfield 01301
(413) 774-4388

Hampden County
Superior Court House, 50 State St.
Springfield 01103
(413) 781-8100

Hampshire County
Superior Court House
Northampton 01060
(413) 584-5810

Middlesex County
Superior Court House
East Cambridge 02141
494-4010
Superior Court House
Lowell 01852
453-0201

Nantucket County
Nantucket Court House
Broad St.
Nantucket 02554
228-2559

Norfolk County
Superior Court House
High St.
Dedham 02026
326-1600

Plymouth County
Court House
Plymouth 02360
747-0500

Suffolk County
Appeals Court
1404 New Court House Bldg.
Pemberton Sq.
Boston 02108
742-9250

Worcester County
Court House, 2 Main St.
Worcester 01608
756-2441

D. LAWYERS AND LEGAL RESOURCES

SPECIALIZED LEGAL SERVICES

Boston College Legal Assistance Bureau, 21 Lexington St., Waltham 02154, 893-4793. Serves clients at Metropolitan State Hospital, Waltham, for mental health related issues and general legal matters.

Developmental Disabilities Law Center of Massachusetts, 294 Washington Street, Room 840, Boston 02108, 426-7020. Represents clients in law reform cases, takes on education and training activities and provides an information and referral service for all developmentally disabled people in Massachusetts. This is Massachusetts' federally-funded protection and advocacy agency for developmentally disabled people. Services to developmentally disabled people are free.

Mental Health Legal Advisors Committee, 294 Washington Street, Room 840, Boston 02108, 723-2876. Funded through the Massachusetts Supreme Judicial Court to provide legal services to indigent residents of mental health and retardation institutions in Massachusetts. Independent of the Department of Mental Health. Provides information and referral; training in mental disabilities law; maintains small library on mental disabilities law; publishes materials for lawyers and lay people. Provides legal services primarily through field offices in Belchertown State School, Bridgewater State Hospital, Danvers State Hospital, Fernald State School, and Worcester State Hospital. Central office provides limited representation for clients not covered by field offices.

Mental Patients Advocacy Project, Northampton State Hospital, Northampton 01060, (413) 584-1644 x 265. Legal representation and advice for patients of Northampton State Hospital.

Mental Disability Law Reform Project, Mass. Bar Association, 1 Center Plaza, Boston 02108, 523-4529. Referrals to attorneys who have agreed to take cases for developmentally disabled clients, on a reduced fee or pro-bono basis when their financial circumstances require. Cases must involve client's disability.

LEGAL INFORMATION/ADVICE

Lowell Bar Association, Hildreth Bldg., 218A, 45 Merrimac St., Lowell, 459-4653. Free legal clinic Thursdays, 7 p.m. on, for residents of Greater Lowell. Will ascertain if client has legal problem and will refer.

Middlesex County Bar Association, New Courthouse, 4th Floor, 40 Thorndike St., Cambridge, 494-4150. Legal clinic held every Wednesday, 5-8 p.m. Appointment necessary. Legal questions generally not answered on telephone. No fee. No geographical restrictions.

REFERRAL SERVICES FOR LOCATING PRIVATE LAWYERS (at regular fees)

Lawyers Reference Service of Boston Bar Assoc.
16 Beacon St., Boston 02108
742-0625

Lawyers Referral Service of Middlesex County
Bar Assoc.
Superior Court House, Cambridge 02141
494-4150

Lawyers Reference Service of Bar Association
of Norfolk County
P.O. Box 66, Dedham 02026

Massachusetts Bar Association's Lawyer Referral Service
One Center Plaza, Boston 02108
523-0595; or 1-800-392-6164 toll free

National Lawyers Guild Referral Service
595 Massachusetts Ave., Cambridge 02139
661-6358

DEFENDER COMMITTEES (free services for criminal cases if you meet income and eligibility guidelines)

Harvard Defenders
Austin Hall, Harvard Law School
Cambridge 02138
495-4413, 495-3144

Roxbury Defenders Committee Inc.
124-126 Warren St., Roxbury 02119
445-5640

Suffolk Voluntary Defenders
Suffolk University Law School
41 Temple St., Boston 02114
723-4700

Massachusetts Defenders Committee
120 Boylston St., Boston 02116
482-6212

LEGAL AID AND LEGAL SERVICES PROGRAMS**

Massachusetts Towns and Cities and Legal Aid agencies by initials (see p. 180 through 183 for Code)

Abington	BLP, BVLR, GRBLS
Acton	HLAB, WSCS
Acushnet	OLS, NBLA
Adams	WMLS
Agawam	LASS, WMLS
Alford	WMLS
Amesbury	MVLS
Amherst	WMLS
Andover	LASL, MVLS
Arlington	HLAB, WCSC, CPC
Ashby	HLAB
Ashburnham	CMLS, LASW, WCBA
Ashfield	WMLS
Ashland	SMLS
Athol	CMLS, LASW, WCBA
Auburn	CMLS, LASW, WCBA
Ayer	HLAB
Avon	BLP, BVLR, GRBLS
Barnstable	LSC
Barre	CMLS, LASW, WCBA
Becket	WMLS
Bedford	HLAB, WCSC
Belchertown	WMLS
Bellingham	MHSC
Belmont	HLAB, ANLC, CPC
Berlin	CMLS, LASW, WCBA
Bernardston	WMLS
Beverly	SULAB, ANLC
Billerica	HLAB, MVLS
Blackstone	LASW, CMLS, MHSC
Blanford	WMLS
Bolton	CMLS, LASW, WCBA
Boston	GRBLS, HLAB, ANLC, CCCS*, VLP, CPC, LCCR
Bourne	LSC
Boxborough	HLAB, WSCS
Boxford	MVLS
Boylston	CMLS, LASW, WCBA
Braintree	GRBLS (Quincy Office)
Brewster	LSC
Bridgewater	BLP, BVLR, GRBLS
Brimfield	WMLS
Brockton	GRBLS (Brockton Outreach), BVLR, BLP
Brookfield	CMLS, LASW, WCBA
Brookline	GRBLS, ANLC, CPC
Buckland	WMLS
Burlington	WCSC, HLAB
Cambridge	CASLA, HLAB, ANLC, CPC
Canton	BLP
Carlisle	HLAB, WCSC
Carver	PCBA, GRBLS (Scituate Outreach)
Charlemont	WMLS
Charlestown	SULAB
Charlton	CMLS, LASW, WCBA
Chatham	LSC
Chelmsford	HLAB, MVLS
Chelsea	NSLA, HLAB, ANLC
Cheshire	WMLS
Chester	WMLS
Chesterfield	WMLS
Chicopee	WMLS
Chilmark	LSC
Clarksburg	WMLS
Clinton	CMLS, LASW, WCBA
Cohasset	PCBA, GRBLS (Scituate Outreach)
Colrain	WMLS
Concord	HLAB, WSCS
Conway	WMLS
Cummington	WMLS

* CCCS--Suffolk, E. Middlesex, near downtown Boston only.

**Mental Health Legal Advisors Committee wishes to thank the Mass. Bar Association for this listing.

177

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

Dalton	WMLS
Danvers	ANLC
Dartmouth	NBLA, OLS
Dedham	
Deerfield	WMLS
Dennis	LSC
Douglas	CMLS, LASW, MHSC, WCBA
Dover	
Dracut	HLAB, MVLS
Dudley	CMLS, LASW, WCBA
Dunstable	HLAB, MVLS
Duxbury	PCBA, GRBLS (Scituate Outreach)
E. Bridgewater	BVLR, BLP
E. Brookfield	CMLS, LASW, WCBA
Eastham	LSC
Easthampton	WMLS
E. Longmeadow	LASS, WMLS
Easton	GRBLS, BLP
Edgartown	LSC
Egremont	WMLS
Erving	WMLS
Essex	SULAB
Everett	HLAB, GRBLS, NELS, ANLC, CPC
Fairhaven	NBLA, OLS
Fall River	OLS, FROC
Falmouth	LSC
Fitchburg	CMLS, LASW, WCBA
Florida	WMLS
Foxboro	MHSC
Framingham	HLAB, SMLS
Franklin	CMLS, MHSC
Freetown	OLS
Gardner	CMLS, LASW, WCBA
Gay Head	LSC
Georgetown	MVLS
Gill	WMLS
Gloucester	SULAB

Gosnold	LSC
Goshen	WMLS
Grafton	CMLS, LASW, WCBA
Granby	WMLS
Granville	WMLS
Gr. Barrington	WMLS
Greenfield	WMLS
Groton	HLAB
Groveland	MVLS
Hadfield	WMLS
Hadley	WMLS
Halifax	PCBA
Hamilton	SULAB
Hampden	LASS, WMLS
Hancock	WMLS
Hanover	PCBA, GRBLS (Scituate Outreach)
Hanson	BLP, PCBA, GRBLS (Scituate Outreach)
Hardwick	CMLS, LASW, WCBA
Harvard	CMLS, LASW, WCBA
Harwich	LSC
Haverhill	MVLS
Hawley	WMLS
Heath	WMLS
Hingham	PCBA, GRBLS (Scituate Outreach)
Hinsdale	WMLS
Holbrook	GRBLS (Quincy Office), BVLR
Holden	LASW, CMLS, WCBA
Holland	WMLS
Holliston	HLAB, SMLS
Holyoke	WMLS
Hopedale	LASW, CMLS, MHSC, WCBA
Hopkinton	HLAB, SMLS
Hubbardston	LASW, CMLS, WCBA
Hudson	HLAB, SMLS
Hull	PCBC, GRBLS (Scituate Outreach)
Huntington	WMLS
Ipswich	SULAB

178

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

Kingston	PCBA, GRBLS (Scituate Outreach)
Lancaster	LASW, CMLS, WCBA
Lanesborough	WMLS
Lawrence	MVLS
Lee	WMLS
Leicester	LASW, CMLS
Lenox	WMLS
Leominster	CMLS, WCBA
Leverett	WMLS
Lexington	WCSC, HLAB
Leyden	WMLS
Lincoln	HLAB, WCSC
Littleton	HLAB, WCSC
Lowell	MVLS
Longmeadow	LASS, WMLS
Ludlow	LASS, WMLS
Lunenburg	CMLS, LASW, WCBA
Lynn	NLSL, ANLC
Lynnfield	ANLC
Malden	HLAB, GRBLS, NELS, ANLC
Manchester	SULAB
Mansfield	GRBLS
Marblehead	ANLC
Marion	NBLA
Marlborough	HLAB, SMLS
Marshfield	PCBA, GRBLS (Scituate Outreach)
Mashpee	LSC
Mattapoisett	NBLA
Maynard	HLAB, WCSC
Medfield	MHSC, GRBLS
Medford	HLAB, GRBLS, NELS, ANLC, CPC
Medway	MHSC
Melrose	HLAB, NELS, ANLC
Mendon	LSAW, CMLS, GRBLS, MHSC, WCBA
Merrimac	MVLS
Methuen	MVLS
Middleborough	PCBA
Middlefield	WMLS
Middleton	
Milford	LAWS, CMLS, MHSC, WCBA
Millbury	LASW, CMLS, WCBA
Millis	MHSC
Millville	LASW, CMLS, MHSC, WCBA
Milton	GRBLS
Monroe	WMLS
Monson	WMLS
Montague	WMLS
Monterey	WMLS
Montgomery	WMLS
Mt. Washington	WMLS
Nahant	ANLC
Natick	HLAB, SMLS
Needham	
New Ashbord	WMLS
New Bedford	NBLA, OLS
New Braintree	LASW, CMLS, WCBA
Newbury	MVLS
Newburyport	MVLS
New Marlborough	WMLS
New Salem	WMLS
Newton	BCLA, HLAB
Norfolk	MHSC
North Adams	WMLS
Northampton	WMLS
North Andover	MVLS
Northborough	LSAW, CMLS, WCBA
Northbridge	CMLS, LASW, MHSC, WCBA
N. Brookfield	CMLS, LASW, WCBA
Northfield	WMLS
North Reading	HLAB
Norwell	GRBLS, PCBA
Oak Bluffs	LSC
Oakham	CMLS, LASW, WCBA
Orange	WMLS
Orleans	LSC
Otis	WMLS
Oxford	LASW, CMLS, MHSC, WCBA
Oxbridge	MHSC

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

Palmer	WMLS
Paxton	LASW, CMLS, WCBA
Peabody	ANLC
Pelham	WMLS
Pembroke	PCBA, GRBLS (Scituate Outreach)
Pepperell	HLAB
Peru	WMLS
Petersham	LASW, CMLS, WCBA
Phillipston	CMLS, LASW, WCBA
Pittsfield	WMLS
Plymouth	PCBA, GRBLS (Scituate Outreach)
Plainville	MHSC
Plympton	PCBA
Princeton	LASW, CMLS , WCBA
Provincetown	LSC
Quincy	GRBLS (Quincy Office)
Randolph	BLP, GRBLS (Quincy Office)
Reading	WCSC, HLAB
Revere	NSLA, ANLC
Richmond	WMLS
Rochester	NBLA
Rockland	BLP, PCBA, GRBLS (Scituate Outreach)
Rockport	SOLAB
Royalston	LASW, CMLS , WCBA
Rowe	WMLS
Rowley	MVLS
Russell	WMLS
Rutland	LASW, CMLS, WCBA
Salem	ANLC
Salisbury	MVLS
Sandisfield	WMLS
Sandwich	LSC
Saugus	ANLC
Savoy	WMLS
Scituate	PCBA, GRBLS (Scituate Outreach)
Sharon	BLP
Sheffield	WMLS
Shelburne	WMLS
Sherborn	HLAB, SMLS
Shirley	HLAB
Shrewsbury	LASW, CMLS, WCBA
Shutesbury	WMLS
Somerset	OLS
Somerville	CASLS, HLAB, ANLC, CPC
Southampton	WMLS
Southboro	LASW, CMLS
Southbridge	LASW, CMLS, WCBA
South Hadley	WMLS
Southwick	WMLS
Spencer	LASW, CMLS, WCBA
Springfield	LASS, WMLS
Sterling	CMLS, LASW, WCBA
Stockbridge	WMLS
Stoughton	BLP, BVLR, GRBLs
Stoneham	WCSC, HLAB, ANLC
Stow	HLAB, WCSC
Sturbridge	LASW, CMLS, WCBA
Sudbury	HLAB
Sunderland	WMLS
Sutton	CMLS, LASW, WCBA
Swampscott	ANLC
Swansea	OLS
Templeton	CMLS, LASW, WCBA
Tewksbury	HLAB, MVLS
Tisbury	LSC
Tolland	WMLS
Topsfield	
Townsend	HLAB
Truro	LSC
Tynsborough	HLAB, MVLS
Tyringham	WMLS
Upton	LASW, HLAB, MHSC, WCBA
Uxbridge	CMLS, LASW, WCBA

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

Wakefield	HLAB, NELS, ANLC
Wales	WMLS
Waltham	BCLA, HLAB
Ware	WMLS
Wareham	PCBA, LSC
Warren	CMLS, LASW, WCBA
Warwick	WMLS
Washington	WMLS
Watertown	BCLA, HLAB, ANLC, CPC
Wayland	HLAB, SMLS
Webster	LASW, CMLS, MHSC, WCBA
Wellesley	
Wellfleet	LSC
Wendell	WMLS
Wenham	SULAB
Westboro	LASW, CMLS, WCBA
W. Boylston	LASW, CMLS, WCBA
W. Bridgewater	BVLR, BLP
W. Brookfield	CMLS, LASW, WCBA
Westfield	LASS, WMLS
Westford	HLAB, MVLS
Westhampton	WMLS
Westminster	CMLS, LASW, WCBA
W. Newbury	MVLS
Weston	HLAB
Westport	NBLA, OLS
W. Springfield	LASS, WMLS
W. Stockbridge	WMLS
W. Tisbury	LSC
Westwood	
Weymouth	GRBLS (Quincy Office), PCBA
Whately	WMLS
Whitman	FVLR, GRBLS, BLP
Wilbraham	LASS, WMLS
Williamsburg	WMLS
Williamstown	WMLS
Wilmington	WCSC, HLAB
Winchendon	CMLS, LASW, WCBA
Winchester	WCSC, HLAB
Windsor	WMLS
Winthrop	HLAB, NSLA
Woburn	WCSC, HLAB, ANLS
Worcester	CMLS, LASW, WCBA
Worthington	WMLS
Wrentham	MHSC
Yarmouth	LSC

List of Towns Without Service:

Attleboro
Berkeley
Dedham
Dighton
Dover
Ladeville
Nantucket
Needham
North Attleboro
Norton
Norwood
Raynham
Reholoth
Seekonk
Taunton
Topsfield
Walpole
Wellesley
Westwood

NOTE: Callers in these towns can be referred to Mass. Bar Assn., Lawyer Referral Service 1 Center Plaza, Boston 523-0595 or 1-800-392-6164

Many of their lawyers will work on a sliding scale fee basis.

181

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

ANLC Association of Neighborhood Law Clinics. 59 Temple Pl, Boston. 482-6761. Most civil cases; domestic relations uncontested; small claims, social security, welfare. No name change. ANLC works with law collectives and law clinics. Client must be referred through ANLC main office, which screens for income eligibility, geographic guidelines and categories covered. If client eligible, referred to member office.

BCLA Boston College Legal Assitance Bureau. 21 Lexington St., Waltham. 893-4793. Civil; court-appointed juvenile. Spanish.

BLP Brockton Legal Project, Inc. 47 W. Elm St., Brockton 596-8393. Landlord/tenant; welfare,SSI, SSA. Portuguese.

BVLR Brockton Volunteer Legal Referral. c/o Brockton Multi-Service Center. 165 Quincy St., Brockton. 586-6625. Com. Rel.; small claims; govt. benefits; SSI; SSA.

CASLS Cambridge/Somerville Legal Services, Inc. 24 Thorndike St. Cambridge. 492-5520. Most civil. Spanish, Portuguese, Haitian.

CCSS Cardinal Cushing Span. Speaking Center. 1375 Washington St. South End, Boston. 542-9292; Cooper Community Center, 1891 Washington St., Roxbury 02119. 445-1813. (Open part-time only) Primarily civil. Refer divorce. Spanish.

CMLS Central Mass. Legal Services.
339 Main St., Worcester; 752-3718
455 Main St., Fitchburg; 345-1946
Most civil. Spanish.

CPC Cambridgeport Problem Center, 1 West St., Cambridge 02139. 661-1010. Hours: 1:00-4:00 M-F; 6:00-9:00 M-T; 9:00-12:00 Fri. Consumer, divorce, landlord/tenant, unemployment, welfare, government procedures, technicalities.

FRCD Fall River Community Development Service Center, Inc., 102 County St., Fall River 02723. 679-8111. Civil. Portuguese.

GRBLS Greater Boston Legal Services. 27 School St., Boston 02108, 742-8930 (Administrative Offices). Consumer; adoption without consent; custody/guardianship; divorce; non-support; separation. Govt. benefits. Housing. Juvenile.

Brighton office (Brighton, Allston, Brookline): 56 Chestnut Hill Ave. 254-0312. Civil. Landlord/tehant, consumer. Govt. benefits.

East Boston office (E. Boston, North End): 108 Maverick St., 569-1661. Civil.

Field Corner office (Dorchester): 1486 Dorchester Ave., 436-6292. Civil. Spanish.

Grove Hall office (Roxbury, Mattapan): 466 Blue Hill Ave., 442-0211. Civil, Spanish.

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

GRBLS, cont.

South Boston office: 242 W. Broadway, 269-3700. Emergency: evictions, utility shut-offs, denial or reduction of public assistance.

South End office (South End, Back Bay, Beacon Hill, Roslindale, Jamaica Plain, West Roxbury, Hyde Park): 793 Tremont St., 261-8750. Civil. Spanish, Chinese.

Medford (Malden, Medford, Everett): 42 Water St., Medford, 396-6613. Civil.

Quincy office (Quincy, Milton, Randolph, Braintree, Holbrook, Weymouth): 1 Clivedon St., Quincy, 472-3177. Civil, non-domestic.

Scituate Outreach office (Scituate, Rockland, Plymouth): 2 Plaza St., Marshfield, 837-3337. 100 Court St., Plymouth, 746-2070. Income maintenance only--welfare, SSA, SSI, unemployment, etc. Spanish, Portuguese.

HLAB Harvard Legal Aid Bureau, 1511 Mass. Ave., Cambridge, 495-4408. Most civil. No probate for Suffolk County.

LSC Legal Services for Cape Cod and Islands, 35 Winter St., Hyannis, 775-7020. Most civil. Spanish, Portuguese.

LASW Legal Aid Society, 340 Main St., Worcester, 756-7639. Civil, no divorce.

LCCR Lawyers Committee for Civil Rights Under Law, 294 Washington St., Room 636, Boston, 482-1145. Major law firms donate services; also has 3 staff attorneys. Minority discrimination, education, urban renewal, food programs.

MVLS Merrimack Valley Legal Services, Inc., 13 Hurd St., Lowell 01852, 458-1465; 46 Amesbury St., Lawrence, 687-1177; 1 Water St., Haverhill 01830, 373-9176. All civil, no bankruptcy, name changes. French, Spanish.

NBLA New Bedford Legal Aid Society, 13 S. 6th St., New Bedford 02740, 992-5013. Civil; in divorce, defends only.

NELS New England School of Law, 96 Summer St., Malden, 321-7210, civil.

NLS Neighborhood Legal Services, Inc., 31 Exchange St., Lynn 01901, 599-7730. All civil. Spanish.

NSLA North Suffolk Legal Assistance Assoc., 279 Broadway, Chelsea, 884-7568. Civil. No bankruptcy. Wills; juvenile. Spanish.

OLS Onboard Legal Services, 18 Water St., New Bedford, 996-8576; 170 Pleasant St., Fall River 02721; 676-3016. Civil. Portuguese, Spanish.

LEGAL AID AND LEGAL SERVICES PROGRAMS, continued

PCBA Plymouth County Bar Association, 47 W. Elm St., Brocketon, 584-1343. Legal Services intake Thursday evening, 773-3026, 746-7607 (Hull). 1 Plaza East, Marshfield, 837-5786, legal services intake Wednesday evening. Civil, no tort, divorce. Portuguese.

SMLS South Middlesex Legal Services, 36 Concord St., Framingham, 620-1830. Civil. Spanish.

SULAB Suffolk University Legal Assistance Bureau, 41 Temple St., Boston 02114. 723-4700 x151,2. Administrative only; closed school vacation.

Kennedy Center of Boston, Charlestown 02129, 241-8866. Family law.

88 Elliott St., Beverly 01915, 927-5234. Family law.

VLP Volunteer Lawyer's Project, 73 Tremont St., Suite 1001, Boston, 742-5823. Call for appointment. Consumer, housing; landlord-tenant. Domestic. Bankruptcy; SSI; Immigration; welfare. Spanish.

WCBA Worcester Co. Bar Association, 340 Main St., Worcester, 756-0839. Civil.

WCSC Woburn Council of Social Concern. Central Middlesex Legal Services, 441 Main St., Woburn, 935-6495. Civil. Spanish, French, Italian, Portuguese, Swedish.

WMLS Western Mass. Legal Services, 29 Pleasant St., Northampton. (413) 584-4034. All civil. major emphasis welfare and housing. No name-change, bankruptcy, consumer. Special elderly unit in each office.

278 Main St., Greenfield (413) 774-3747. Same.

247 Cabot St., Holyoke 01040. Same

85 Main St., 5th Fl., N. Adams 01247 (413) 664-4531. Same

33 Pearl St., Pittsfield 01201 (413) 499-1950. Same

Quabog Legal Services, 96 S. St., Ware (413) 967-6241. Civil, divorce.

121 Chestnut St., springfield 01103, (413) 871-7814. Limited family, divorce. Spanish.

II. WRITTEN RESOURCES

LAWS AND REGULATIONS: WHERE TO FIND THEM

State laws can often be found in a public library. State regulations can be ordered from:

State House Bookstore
State House
Boston, MA 02108
727-2834

Payment should be enclosed with your order for regulations.
Federal laws and regulations may be ordered from:

Federal Book Store
JFK Federal Building
Boston, MA 02203
223-6071

Law libraries are found at law schools, some courthouses, the State House in Boston. Admission rules vary.

The Mental Health Legal Advisors Committee and the Developmental Disabilities Law Center maintain small libraries at 294 Washington Street, Room 840, Boston 02108 (723-2876; 426-7020). While these libraries are open to the public, space is very limited, so you are requested to call ahead if you wish to come. Materials may not be taken out, but you may obtain copies for a small charge.

LAWS AND REGULATIONS: KEY RESOURCES IN DEVELOPMENTAL DISABILITIES LAW

"USC" = United States Code--federal laws
"CFR" = Code of Federal Regulations
"MGL" = Massachusetts General Laws
"CHSR" = Code of Human Services Regulations--Massachusetts regulations
Sec. = Section
Ch. = Chapter

42 USC Sec. 4151-57: Architectural Barriers Act of 1968 as amended.
36 CFR Part 1150: Practice and Procedures for Compliance Hearings of Architectural and Transportation Barriers Compliance Board.
29 USC Sec. 792: Section 502 of the Rehabilitation Act of 1973; sets up Architectural and Transportation Barriers Compliance Board.
MGL Ch. 22 Sec. 13A: Architectural Barriers Board.
Architectural Barriers Board Regulations, 2/25/77. Details specific requirements under Massachusetts law for accessibility.
American National Standards Institute, Specifications for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped. ANSI, 1430 Broadway, New York, N.Y. 10018. These are the standards required by federal accessibility laws.

29 USC Sec. 794: Section 504 of the Rehabilitation Act of 1973. Non-discrimination against handicapped people by organizations receiving federal funds.
45 CFR Part 84: regulations of the Department of Health, Education and Welfare giving detailed requirements for implementation of Section 504. This is the model for other federal agencies in writing their own regu-

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